UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1992/51
17 January 1992

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Forty-eighth session
Item 19 of the provisional agenda

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Report on Equatorial Guinea prepared by the Expert, Mr. Fernando Volio Jiménez, in accordance with resolution 1991/80, paragraph 8, of the Commission on Human Rights

CONTENTS

		Paragraphs	Page
I.	Introduction	1 - 8	2
II.	Activities of the Expert	9 - 26	3
III.	Fourth visit to the country	27 - 92	8
IV.	Conclusions	93 - 122	33
V.	Recommendations	123 - 152	38

GE.92-10141/4240B

I. INTRODUCTION

1. The Commission on Human Rights has concerned itself publicly with the question of Equatorial Guinea since 1979. On 8 March 1979, at its thirty-fifth session, the Commission adopted a confidential decision whereby it discontinued consideration of the human rights situation in Equatorial Guinea under Economic and Social Council resolution 1503 (XLVIII) - the confidential procedure - and took up consideration of the question under the public procedure provided for by Commission resolution 8 (XXIII) and Council resolution 1235 (XLII). Subsequently, on 13 March 1979, the Commission adopted resolution 15 (XXXV), by which it decided to entrust to a Special Rapporteur of the Commission, to be appointed by its Chairman, the task of making a thorough study of the human rights situation in Equatorial Guinea. The Economic and Social Council, for its part, approved the Commission's decisions by its own decision 1979/35 of 10 May 1979, adding that the material before the Commission on the question should no longer be restricted under Council resolution 1503 (XLVIII).

2. The Chairman of the Commission appointed as Special Rapporteur Mr. Fernando Volio Jiménez (Costa Rica), who submitted his first report on the human rights situation in Equatorial Guinea to the Commission at its thirty-sixth session (E/CN.4/1371 and Corr.1). In the light of that report, the Commission adopted resolution 33 (XXXVI), of 11 March 1980, whereby it decided to request the Secretary-General to appoint, as an expert in his individual capacity, a person with wide experience of the situation in Equatorial Guinea, in particular with a view to assisting the Government of that country in taking the action necessary for the full restoration of human rights and fundamental freedoms, keeping in mind the recommendations of the Special Rapporteur and the economic, political and social realities of the country. The Commission's resolution was approved by the Economic and Social Council on 2 May 1980 (decision 1980/137). The Secretary-General appointed Mr. Fernando Volio Jiménez as the Expert in his individual capacity to carry out the above task. Mr. Volio Jiménez accepted the appointment on 19 September 1980, and the Government of Equatorial Guinea indicated its concurrence on 1 October 1980.

3. Since then, the Expert has reported annually to the Commission on Human Rights on the mishaps befalling the Plan of Action for the restoration of human rights and fundamental freedoms which he himself prepared, and which was proposed by the United Nations and accepted by the Government of Equatorial Guinea.

4. At its forty-seventh session, the Commission had before it the report of the Expert contained in documents E/CN.4/1991/54 and Add.1 and 2, describing the advisory services made available to Equatorial Guinea by the United Nations during 1990 and the Expert's concern over what he called stagnation in the implementation of the Plan he had proposed, along with his view that the Commission's current strategy for considering the human rights situation in Equatorial Guinea should be rethought. To that end, he suggested that his mandate should be "broadened and strengthened so that, in investigating the human rights situation in that country, he can consider allegations of possible human rights violations and conduct inquiries on the spot" (E/CN.4/1991/54/Add.2, para. 18).

5. In the light of the Expert's report, the Commission decided, inter alia, to request the Secretary-General to continue "to provide such advisory services and other forms of appropriate assistance in the field of human rights as may be requested by the Government of Equatorial Guinea ..." and "to extend the mandate of the Expert responsible for cooperating with the Government of Equatorial Guinea in the full implementation of the Plan of Action proposed by the United Nations and accepted by that Government, with a view to studying the existing situation of human rights and fundamental freedoms in Equatorial Guinea" (resolution 1991/80 of 6 March 1991, paras. 7 and 8).

6. Subsequently, by decision 1991/260, of 31 May 1991, the Economic and Social Council approved the Commission's resolution.

7. In fulfilment of the above mandate, the Expert travelled to Equatorial Guinea for the fourth time, with the object of receiving first-hand information not only from the Government but also from non-governmental organizations and interested parties. He also went to Geneva and Madrid, to establish contacts with Equatorial Guineans in exile, international organizations and other non-governmental organizations. All this is described in the following sections of this report, which the Expert now has the honour to submit to the Commission for its consideration.

8. This report covers the most relevant events in Equatorial Guinea during 1991, ending for technical reasons on 23 December 1991.

II. ACTIVITIES OF THE EXPERT

9. Once Commission on Human Rights resolution 1991/80, extending his mandate for another year, was approved, the Expert made a further visit to Equatorial Guinea, for the purpose of personally determining what was happening in the human rights field, his absolute priority.

10. On 9 September 1991 the Centre for Human Rights sent a fax to the Ministry of Foreign Affairs of Equatorial Guinea informing it of the Expert's desire to visit Equatorial Guinea for the purpose of investigating "current conditions relating to respect for human rights" and exploring "new forms of technical assistance which the Government might obtain in the matter of human rights". The Expert also announced that he was concerned "... by the lack of political openness in Equatorial Guinea and that therefore this should be regarded as the central issue in my conversations with authorized Government figures. The question of refugees or exiles would therefore form part of what would constitute democratic liberalization." Lastly, the Expert requested the necessary consent and facilities to carry out his mission in accordance with his own work programme, which would cover both Bioco and Río Muni. He also mentioned his wish to have an audience with the President of the Republic.

11. In reply, the Secretary-General of the United Nations received a letter from the President of the Republic, dated Malabo, 19 September 1991, extending an official invitation for Mr. Volio Jiménez to visit the country during the second half of November 1991 "in order to experience at close range the advances achieved in the sphere of the people's civil and political rights and assist the Government in the implementation of the programme for opening up a pluralist political system".

12. In addition, the Centre for Human Rights received a note verbale from the Permanent Mission of the Republic of Equatorial Guinea to the United Nations Office at Geneva dated 20 October 1991, transmitting a speech made by the President on 20 September of that year in which he presented the Government's programme "on political liberalization and multipartyism in Equatorial Guinea". The speech indicates that such a programme of political liberalization and movement towards pluralism was being carried out by the Government further to resolutions adopted by the first national congress of the Democratic Party of Equatorial Guinea (the sole party), held at Bata from 2 to 6 August 1991. According to the President, the programme "is to begin with the reform of the Fundamental Law of Equatorial Guinea, which will be followed up by other provisions relating to public rights and freedoms", inasmuch as the 1982 Constitution suffers "... from a failure to provide for greater political liberalization allowing the formation of political parties". In another passage, the President recalls that in 1985 "we decided to create the Democratic Party of Equatorial Guinea as a political movement for agglutinating the people" and that in 1988 he was designated the "sole candidate of the Party for the presidential elections". In his opinion, "the process pursued since 1979 has shown the world our ability and political maturity", and he is thus laying out his programme of pluralist political liberalization in three stages: the first, short-term, will consist of "the preparation and promulgation of a package of laws and regulations constituting the legal framework for ensuring the participation of other political options in the country ... starting with revision of the Fundamental Law" and immediately opening the way "to the formation and functioning of political parties". The second stage, medium-term, will seek to promote "constructive participation by the new political parties in the formation of the country's elective bodies", once the current legislature expires. Lastly, the third stage, long-term, will aim at creating "an atmosphere conducive to constructive participation by political parties at all levels, in the form prescribed by law, for the consolidation of the pluralist system ...".

13. Further, the Expert was informed of the creation of the "Committee on Human Rights of Equatorial Guinea" by Decree-Law No. 7/1990, of 27 September. The Committee will be competent "to receive complaints and where appropriate take steps to investigate possible violations of human rights within the country and make appropriate recommendations to the President of the Republic or to citizens, depending on the case" (art. 1 of the Committee's Rules, subsequently approved by Decree of the President of the Republic, dated 9 May 1991). The Committee is composed of 14 persons, 7 of them members of the Chamber of People's Representatives and the other 7 appointed by the President.

14. The Under-Secretary-General for Human Rights received a letter from the President, dated Malabo, 23 September 1991, in which the President reiterates the desire of his Government to have a printing press to "serve as a means of promoting the right of citizens to their freedom to spread their views and thoughts in writing, in order to develop the national culture". The letter describes the objectives and shortcomings which the printing press would try to cover, and the machinery and supplies required for its installation in Malabo. The Centre for Human Rights informed the Expert and the Government of Canada of this request on 3 October 1991. On the same date, it also informed

the Permanent Representative of Equatorial Guinea to the United Nations Office at Geneva of its efforts, and on 7 October 1991 the UNDP Resident Representative at Malabo was asked for his views.

15. In reply to the invitation extended by the President on 19 September 1991 for the Expert to visit the country in implementation of his mandate, on 31 October 1991 the Centre for Human Rights sent the Permanent Mission of the Republic of Equatorial Guinea to the United Nations Office at Geneva a note verbale in which it confirmed the Expert's acceptance and proposed that the visit should take place between 25 November and 9 December 1991. The note verbale also mentioned the Expert's desire to hold working meetings with the President, the Prime Minister and other Ministers and senior Government officials. It further reiterated the Expert's wish to travel to various places in the country, in both the island and mainland regions, to facilitate contacts with representatives of non-governmental organizations and other people who might wish to meet him. Reference was also made to the Expert's intention to visit Malabo and Bata prisons. Lastly the Centre requested the Government to grant the mission all necessary facilities and the appropriate privileges and immunities.

16. Wishing to make his work in the field as trouble-free as possible, the Expert instructed the Centre for Human Rights to communicate orally to the Permanent Representative of the Republic of Equatorial Guinea to the United Nations Office at Geneva his request for the President to designate a high-ranking liaison officer with decision-making authority. The idea here was to avoid the administrative and bureaucratic obstacles which the Expert had so often encountered on his previous visits to the country.

17. On 16 December 1991, after the Expert's mission, the Centre for Human Rights in Geneva received a letter from the Minister for Foreign Affairs and Cooperation, dated Malabo, 23 September 1991, in which he announced that his Government was prepared to provide the Expert with every facility for the successful completion of his important mission. The Minister also announced that the Expert's visit would coincide "with one of the most decisive stages in the process of the country's democratization, namely the end of the road to orderly political pluralism down which the country started on 3 August 1979".

18. In preparing for the Expert's journey, the Centre for Human Rights asked the UNDP Resident Representative at Malabo for the cooperation and support of his office. It also supplied him with a provisional schedule so that his office could go ahead and arrange the meetings the Expert requested before his arrival. Lastly, it sent him a press release to issue to the country's information media on 24 November 1991. The press release announced the visit of Mr. Volio Jiménez to Equatorial Guinea, describing his mandate and the main things he would be doing. It explained that the Expert would have talks with the country's highest authorities and with representatives of the churches and non-governmental organizations concerned with human rights. Lastly, the press release invited anyone who wished to meet the Expert to get in touch with him through the UNDP office in Malabo.

19. Also during the preparations for his mission, the Expert was informed by non-governmental sources of the publication of a special issue of the Boletín Oficial del Estado of the Republic of Equatorial Guinea on

15 October 1991, containing the draft of a "Reform of the Fundamental Law of Equatorial Guinea". This reform was submitted to a national referendum on 17 November 1991, i.e. seven days before the announced date of the Expert's arrival in the country. Contrary to reports in the Madrid newspaper El Pais on 18 November 1991, the Expert had no opportunity to oversee the referendum. Nor was he officially informed by the Government that the draft reform of the Fundamental Law was in preparation, so he obviously had no opportunity to advise the Government on its text.

20. The Expert arrived in Geneva a few days prior to his mission to Equatorial Guinea, and for the purposes of the mission he worked intensively in that city between 19 and 22 November 1991, holding consultations with secretariat officials in the Centre for Human Rights. Similarly, he met with representatives of the Governments of Spain and the United States of America. He also spoke with senior representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC), the Interparliamentary Union, Amnesty International, the International Commission of Jurists (ICJ), the International Movement for Fraternal Union among Races and Peoples, and the National Alliance for Democratic Restoration in Equatorial Guinea (NADR). In the course of these meetings, the Expert received valuable information and documentation pertaining to his mandate.

21. Since entry into Equatorial Guinea requires a visa from the authorities and there are no consular facilities in Geneva, the secretariat of the Centre for Human Rights arranged with the consul in Madrid that Mr. Volio Jiménez and his party would travel to Madrid on 23 November 1991 and appear at the consulate at 2 p.m. This they did, but the consular office was empty. The Expert was informed by the military attaché of Equatorial Guinea at its Madrid embassy that the consul had absented himself to deal with some personal matters but would return. After an hour of fruitless waiting, the Expert and his companions received travel documents with the stamps for visas to enter Equatorial Guinea, but they were unsigned. The military attaché explained that he had no authority to sign them in the absence of the consul but would be willing to do so the following evening at Barajas airport, when the mission was about to board the aircraft that would take them to Malabo. The Expert pointed out the irregularity of the situation, but the mission nevertheless had to wait till the last moment to obtain the necessary entry visas.

22. Earlier, on the afternoon of 23 November 1991, the Expert had had a talk with the General Co-ordinator of the "Madrid Pact for the Democratization and Self-Development of Equatorial Guinea", receiving a great deal of information relating to his mandate.

23. At the end of their visit to Equatorial Guinea, the Expert and his party returned to Madrid on 9 December 1991, where their schedule enabled them to receive evidence from numerous Equatorial Guineans in exile. On 10 December 1991, the Chairman and two representatives of the Partido Demócrata Popular (PDP) of Equatorial Guinea were received in the offices of the United Nations Information Centre at Madrid. A little later, the Chairman and the General Coordinator of the "Madrid Pact" mentioned above came to see the Expert, followed by some 30 more people representing the 10 political

parties and 5 cultural and technical associations comprising the "Madrid Pact", namely: the political parties Alianza Nacional de Restauración Democrática (ANRD), Congreso Nacional de los Pueblos de Guinea Ecuatorial (previously FRELIGE), Congreso Nacional Democrático de Guinea Ecuatorial, Convergencia Social Demócrata de Guinea Ecuatorial, MOLIFUGE, Partido Socialdemócrata de Guinea Ecuatorial, Unión Bubi, Unión Popular Eriana, Unión Demócrata y Social, and Partido Federal Democrático de Guinea Ecuatorial. The associations are: Asociación Cultural de Guineanos de Levante, Asociación Cultural Rhombe de Barcelona, Asociación Cultural Unión de la Hispanidad, Organización de Técnicos y Profesionales (OTEPGE), and Asociación Presencia Bisio. This grouping of Equatorial Guinean parties and associations in Spain advocates a process of agreed political transition through dialogue among all social, cultural and political forces which represent collective interests of the peoples of Equatorial Guinea. They strongly reject the referendum and the promulgation of the 1991 Constitution, and propose talks between the Government and the "Madrid Pact" in the presence of a third party as mediator: possibly the Expert appointed by the Secretary-General, a representative of the Government of Spain, or a representative of the Organization of African Unity (OAU) or the Movement of Non-aligned Countries. The purpose of such talks would be to draw up an agenda to be dealt with in a dialogue between the two parties. The transition process should be preceded by a modicum of democratic conditions, such as the free formation of political parties in the country, the exercise of public freedoms, including freedom of speech and the press, and the return of exiles. All of the above would converge into a democratic constituent process.

24. On 11 December 1991, a statement was taken from the Chairman of the Partido del Progreso, who mentioned his frustrated efforts in the past to secure the legalization of his party in Equatorial Guinea. The Chairman, Severo Moto, said that he was a national of Equatorial Guinea and showed an identity document of asylum, No. 0663752-H, issued by the Spanish Ministry of the Interior in Madrid on 5 April 1990 and valid for two years. He also showed a "travel document", No. 203/91, issued by the Spanish Government on 29 July 1991 and valid till 4 April 1992 for all countries "except Equatorial Guinea". He reported that in August 1991 he had tried to return to his country and had requested renewal of his passport at the consulate of Equatorial Guinea in Madrid. On 15 August 1991, he was informed at the consulate that the President of his country would not authorize the issue of his passport - a fact which he publicly denounced. This resulted in reprisals against members of his family living in Equatorial Guinea.

25. Immediately thereafter, testimony was received from advisers Juan Manuel Sanz Bayón and José Corbi Coloma, who had been sent to Equatorial Guinea by the Centre for Human Rights in November 1990 in order to provide advisory assistance to that country's Government in drawing up Civil and Penal Codes. Meetings were also held with the Madrid representative of the Office of the United Nations High Commissioner for Refugees (UNHCR) and with the Under-Secretary-General for Sub-Saharan Africa of the Spanish Ministry of Foreign Affairs.

26. The same afternoon, the Expert returned to Costa Rica, where he drafted this report.

III. FOURTH VISIT TO THE COUNTRY

27. The Expert arrived in Equatorial Guinea on 25 November 1991, accompanied by two staff members from the Centre for Human Rights. Over two weeks, he worked through an extensive schedule of meetings with the Prime Minister, the Minister for Foreign Affairs, the Minister of Justice and Worship, the Minister of the Interior, the Minister of Labour, the Minister of Defence and the Minister-Delegate for the Advancement of Women. He was also received by the President and members of the Chamber of Peoples' Representatives, Committee on Human Rights and Supreme Court of Justice and by the State Attorney-General; officials of the Directorate-General of Security, the Director-General of Public Service and Administrative Coordination and other high-ranking State officials. He visited prisons and hospitals in Malabo and Bata and the police station in Bata. He met the Catholic Archbishop of Malabo and other Catholic Church representatives, and representatives of other religious denominations in Equatorial Guinea. Finally, he heard testimony from a total of 102 people who wished to meet him during his stay in Equatorial Guinea and did so either at the UNDP offices in Malabo or in the communities of Bata, Rebola and Baney (the last two on the island of Bioko), which he visited during his stay.

28. Equatorial Guinea is situated in Central Africa, on the Gulf of Guinea. It has an area of 28,000 km^2 and comprises two regions: the insular provinces of Bioko and Annobón and the mainland province (Río Muni, between Cameroon and Gabon, and the islands of Corisco, Elobey Grande and Elobey Chico). The climate is equatorial, with an average temperature of 30° C and 90 per cent relative humidity. The country was estimated to have 356,000 inhabitants in 1991, representing several ethnic groups: Bubis on the island of Bioko, Ndowes and Fang in the continental region and Annobonians on Annobón Island. The country became independent from Spain on 12 October 1968. From 1969 to 1979 it suffered under the bloody dictatorship of Francisco Macías Nguema. On 3 August 1979, Macías was overthrown in a coup d'état by his nephew, General Teodoro Obiang Nguema, who has been President since that time.

29. On arrival at Malabo Airport, the Expert and his party were received by representatives of the Protocol Department of the Ministry of Foreign Affairs, the Permanent Representative of Equatorial Guinea to the United Nations Office at Geneva, the President of the Court of Appeals in Malabo and representatives of UNDP in Equatorial Guinea. They were lodged by the Government at the "Palace of Friendship". That afternoon, the Expert took a statement from an official who said he had been dismissed from his job for political reasons and, as a result, evicted from the State housing he had been occupying with his family.

30. The Expert then looked at his schedule, noting that the Government had not made much progress in setting up the meetings he had requested from Geneva during his preparations for the mission. This situation was aggravated by the fact that, also contrary to the Expert's request, the Government had appointed as liaison officer a junior administrative official from the Protocol Department of the Ministry of Foreign Affairs, who, as was to be expected, had no decision-making power and was not familiar with the nature of the mission. As a result, the Expert was hampered throughout the mission by the lack of a

contact who was able to smooth out the administrative and bureaucratic obstacles which continually arose when it came time to finalize a schedule with the authorities; the schedule had to be discussed day by day and underwent constant and unnecessary last-minute changes and confirmations. As might be expected, this seriously interfered with the Expert's work during his stay in Equatorial Guinea.

31. Nevertheless, the Expert made every effort to break through the bureaucratic restraints that were hampering his relations with the Government authorities. On arriving in Malabo he repeated his desire to meet the President as soon as possible, since he realized that that was the only way of dispelling the administrative inertia so detrimental to the success of his mission. Unfortunately, the President did not grant the desired audience, and even at the end of the mission, after 24 hours of fruitless waiting during which he thought he might be called in at any moment, the Expert had to leave the country without meeting its highest authority. This is particularly revealing if it is borne in mind that, because of the authoritarian nature of the regime, the President of Equatorial Guinea holds a great deal of exclusive power and authority in the political, military, administrative, legislative and judicial spheres. Ultimately, despite the formal promises he received before going to the country and during his stay there, the Expert did not enjoy suitable cooperation from the Government of Equatorial Guinea over his visit.

32. On 26 November 1991, the Expert met the Chief of Protocol, and later the Minister for Foreign Affairs, who was accompanied by an aide and by the Permanent Representative of the Republic of Equatorial Guinea to the United Nations Office at Geneva. The Expert told those authorities of his surprise at the lack of coordination in the appointments he had requested and at having received no information from the Government on the constitutional reform recently approved in a national referendum on 17 November 1991. The Minister expressed his Government's desire to cooperate more closely with the United Nations in the field of human rights and said that his country would like to host a regional human rights body covering West Africa. He also referred to a communication on allegations of torture received by the Special Rapporteur of the Commission on Human Rights on the question of torture, calling it false, unacceptable and an act of undue interference into the internal affairs of his country. He did not comment on the specific allegations of torture in the communication, although he admitted that the person in question had indeed been detained by the security services, for political reasons. He then referred to the recent constitutional reform, which had been prepared by a national commission appointed by the Government, with advisory assistance from Moroccan and French experts. Once the text had been adopted by the Government, Parliament had ratified it, and on 17 November 1991 the people had approved it by referendum. He also announced that an amnesty law would be enacted shortly, as well as a law on political parties because, as he said, "the exiles are demanding it". In conclusion, he asked the Expert what human rights had to do with democracy, to which the Expert had to reply in the most thorough and elementary way possible.

33. The Expert then visited the President of the Chamber of Peoples' Representatives, who was accompanied by the two Vice-Chairmen of the Chamber and its general secretary; these four persons are the officers of the

Committee on Human Rights in Equatorial Guinea. The President of the Chamber said that the Additional Provision of the Constitution adopted by the referendum of 17 November 1991, which stipulates that the current President of the Republic "cannot be tried, judged or called as witness, before, during or after his mandate", was introduced at the initiative of the Chamber itself. When asked about the possibility of a law legalizing political parties in the country, he said that he was not familiar with the status of that question, although he noted that, in accordance with article 9 of the constitutional reform, political parties "cannot bear the same names as those in existence before 12 October 1968, and must be national in nature and scope, and thus may not be based on a tribe, ethnic group, region, district, municipality, province, sex, religion, social status or profession". Article 9 also states that a law shall govern the establishment and functioning of the political parties. Article 13 of the Constitution, which grants a series of rights and liberties to every citizen, including the right to habeas corpus and amparo, also refers, in its final clause, to future legislative provisions which "will define the conditions for the exercise of these rights and freedoms".

34. Concerning the Committee on Human Rights, the President of the Chamber said that it had been established by a Presidential Decree dated 27 September 1990. The Committee was attached to the Parliament and was composed of the President and officers of the Chamber (seven persons) plus seven others designated by the President of the Republic on 11 February 1991. Further, by Decree No. 39 of 1991, dated 9 May 1991, the President of the Republic had approved the Rules of the Committee, which would be competent to "receive complaints and in such case take steps to investigate possible violations within the country and make appropriate recommendations to the President of the Republic or to citizens, depending on the cases" (art. 1). The Committee had met only once since its establishment, to discuss 15 written complaints and petitions submitted by 15 citizens; all those cases were still being processed. Finally, the President of the Chamber referred to Act No. 5 of 1991, dated 10 June, regulating the right to submit complaints and petitions and enabling all Equatorial Guineans "to apply to the authorities for rulings or decisions on matters within their competence. Such application shall be without prejudice of any kind to the applicant unless he commits an offence or misdeed" (art. 1 of the Act). Such complaints and petitions may be addressed to the President of the Republic, the Chamber of Peoples' Representatives, other administrative authorities, the courts or the Committee on Human Rights itself (art. 2). With regard to officials of the State Administration, local corporations and the armed forces and security forces, "they may exercise this right only in accordance with the provisions in force as regards matters pertaining to their occupations" (art. 4). Regarding complaints or petitions addressed to the Committee on Human Rights, the Committee "shall decide whether they are relevant and make the appropriate recommendation. In any case, the Chairman shall inform the person in question of receipt of the complaint or petition and communicate to him the decision reached by its officers" (art. 17). Finally, the Expert asked about the status of a member of Parliament, Antonio Ebang Mbele Abang, and was told only that he had been "cleared".

35. The Expert was then received by the President of the Supreme Court of Justice, who was accompanied by seven judges of the Court and by the State Attorney-General. The President of the Court confirmed that the country did

not have regulations on the rights of habeas corpus and amparo, despite the fact that the Court had requested the Government to enact legislation on the judicial protection of human rights and on certain oversights in the country's legislation, such as the classification of witchcraft ("kong") as an offence under the Penal Code. He referred to the two Spanish advisers whom the United Nations Centre for Human Rights had sent in 1990 to help in drafting the new Civil and Penal Codes, describing as useful and "harmonious" the work they had done in the working groups set up for the purpose. However, the work remained unfinished, since the schedule drawn up for 1991 had not been met. He also cited the shortage of properly trained judicial personnel and the lack of resources for the judiciary to work with.

36. The Expert was then granted a meeting with the Minister of Justice and Worship, to whom he repeated his desire to visit the public prisons at Malabo and Bata and requested the appropriate credentials, since he had been told that they were in military security zones, and had been since their construction during the colonial period. Asked about his Government's plans for legislation, the Minister said that priority would be given to the laws giving effect to the Constitution adopted in the 17 November 1991 referendum. The Expert pointed out that it was urgent to enact an organizational law to govern the functioning of the Constitutional Division of the Supreme Court of Justice, as provided for in articles 94 to 97 of the 1991 Constitution, and to issue regulations on the exercise of human rights and freedoms, including the right to habeas corpus and amparo (1991 Constitution, art. 13). He felt that drawing up a legislative schedule and setting up a follow-up committee would facilitate the work to a large extent. The Minister expressed his Government's interest in receiving aid for the proper training of judges and judicial personnel, and suggested the holding of a seminar on human rights and the administration of justice in Equatorial Guinea.

37. That afternoon, the Expert visited the offices of "Radio Africa 2000", operating under the auspices of Spanish cooperation, where he was interviewed live and took the opportunity to explain the nature of his mission. He was informed that that radio station was not permitted to broadcast news programmes proper, but had to limit itself to cultural programmes. The Expert then visited the premises of Equatorial Guinean Radio-Television, which has a monopoly of the country's radio and television news services under strict Administration control.

38. The Expert ended his day by meeting the United States Ambassador to Malabo at the UNDP office, and holding a frank exchange of impressions on the human rights situation in the country.

39. On 27 November 1991, the Expert began his day by meeting the Prime Minister and the Minister for Political and Administrative Coordination, who was accompanied by the Secretary-General of the Office of the President. The Prime Minister referred to the need to recognize political pluralism in the country (1991 Constitution, art. 1). He also stressed the importance of the separation introduced by the Constitution between the offices of the President (arts. 34-43) and the Prime Minister (arts. 52-59), who will be the Head of Government, in charge of coordinating ministerial activities, supervising the proper functioning of public services and carrying out Government programmes (art. 55). However, unless authority is explicitly delegated to the Prime

Minister, the Council of Ministers will be chaired by the President of the Republic (art. 56). The Expert was assured that the preliminary draft of the Political Parties Bill, referred to in article 9 of the 1991 Constitution, would be prepared by a commission of leading figures, but no dates were specified. The Prime Minister also said that, despite the fact that he himself belonged to the Bubi ethnic group, he agreed with article 9 of the 1991 Constitution that the formation of tribal political parties should not be permitted. On the subject of exiles, he assured the Expert that those involved were thieves who had been part of the Government, but would be able to return to the country without fear when an amnesty law was enacted. The "liars and agitators", however, would not be able to return. The Expert, for his part, recommended the immediate establishment of a committee to draft texts giving effect to the Constitution in accordance with a set schedule. Topics such as amnesty, pardon of political prisoners, an electoral law, the registration and establishment of political parties, a general law on associations and a law on habeas corpus and amparo should be given high priority. The ultimate goal was to turn the political pluralism set forth as a principle in article 1 of the 1991 Constitution into real instruments for action. The Constitutional Court provided for in articles 94 to 97 of the 1991 Constitution should also be formed on an urgent basis. The Prime Minister replied that hasty decisions might lead to disaster. The Expert emphasized the need to deal with the above-mentioned reforms and the desirability of setting up a follow-up committee, which might be chaired by the Prime Minister himself and enjoy the support of the international community - even the United Nations Centre for Human Rights, which might assign Equatorial Guinea an official to help it implement a properly scheduled legislative programme. In order for such a reform process to be credible, the political pluralism that would permit the exercise of public freedoms and effective political participation in the building of democratic pluralism must immediately be established.

40. Shortly thereafter, the Expert was received by the Minister of Labour, accompanied by an adviser. The Minister said that the country did not yet have trade unions because neither the right to form trade unions nor the right to collective bargaining had yet been recognized. However, article 13, subparagraph (k) of the 1991 Constitution referred to "freedom of association and assembly and freedom to demonstrate", which would make it possible in the future to form trade unions in the context of freedom of association. He informed the Expert that the International Labour Organisation (ILO) had given his Government advisory assistance in 1988 in preparing a draft bill on freedom of association. With regard to the minimum wage, he said that the General Labour Organization Act of 1990 set a minimum wage which varied, according to sector, from 27,000 to 35,000 CFA francs. The implementation of the labour laws was supervised by the corps of labour inspectors, who numbered 25 in all and did not have their own means of transport. The minimum working age had been set at 15 years. In agricultural work a frequent practice was to hire seasonal workers, who worked at piece rates. Although reliable statistics on the employment situation were not available, unemployment appeared to have increased owing to the closing of certain companies and the regulation of jobs in other cases. The Minister also discussed the topic of agricultural cooperatives, called for in a 1990 Act for which the necessary regulations had not yet been enacted. The social security

system was managed by the National Social Security Institute as an autonomous entity. He said, however, that the unemployed were not covered by Social Security and did not receive unemployment benefits.

41. The Expert then went to the offices of the State Attorney-General, whose functions are laid down in Act No. 3/1985 of 25 April, the organic law governing the Government Procurator's Office. The Attorney-General's job is to ensure observance of the laws, promote action by the system of justice and represent the Government in its relations with the judiciary (art. 2 of the Act). In accordance with article 10 of the Act, all civil officials are obliged to inform the State Attorney-General "... of any abuses or serious irregularities that come to their attention in the work of the judges and courts ...". The procurators, for their part, may automatically or at the request of the parties, request reports "from the special courts" in cases where "... there are sufficient grounds to believe that such acts might fall within the competence of the ordinary courts" (art. 11). Regarding detainees, the procurators may request the directors of prisons in their districts to provide "a certified list of the persons being detained or imprisoned in such establishments" (art. 14) and to visit the prisons in question and ensure compliance with the judgements handed down (art. 15). However, the State Attorney-General, who is appointed by the Government and reports to the Minister of Justice and Worship, has only three procurators assisting him throughout the country and the means available to them for doing their job - including the premises housing the Procurator's Office - are clearly inadequate. The Attorney-General also pointed out the scarcity of lawyers in the country, since there are only 31 law school graduates, most of whom are State officials; very few (8) practise professionally. This partly explains why many of the judges and magistrates in the country - including, the Expert was told, the President and six of the magistrates sitting on the Supreme Court - are laymen. On another matter, the Attorney-General referred to an official letter sent to him on 30 September 1991 by the Minister-Delegate for Relations with the Chamber of Representatives and Legal Matters, whereby he was requested to appear before the plenary Chamber "... in order to expand upon his report on the measures he has taken or intends to take in view of the many irregularities and arbitrary actions in the administration of justice which are raising justified complaints on the part of various sectors of the population ...". According to the Attorney-General, he did go before the Chamber to show that there was no solid evidence of so-called irregularities and arbitrary actions in the administration of justice.

42. The same afternoon, the Expert met the Catholic Archbishop of Malabo, who indicated his concern at Act No. 4 of 1991, of 4 June, governing the exercise of religious freedom: the Act imposed unacceptable restrictions on Church activity through excessive State intervention. He said that the Catholic Church had not been consulted during the drafting of the Act and that he had sent the Government his objections in writing, but the disagreement had not been resolved to date. Article 4 of the Act classifies "religious proselytism" as an activity injurious to the rights recognized in the Act, like "... any other illegitimate form of persuasion aimed at gaining followers for a specific belief or denomination ...". Article 6 obliges the various churches and religious denominations to be entered in a public register established by the Ministry of Justice and Worship, in order to obtain legal personality. Article 10 stipulates that a religious denomination must seek

recognition from the President, stating its nature, organization, and the persons leading it and proving that it has "a sufficient number of followers to justify it". Recognition and entry of a religious association in the register is dependent on the accreditation of the denomination, the persons representing it, the statutes governing it and an indication of its initial equity and expected property and assets (art. 13 of the Act). Worship must be conducted "in duly authorized centres or places of worship" (art. 18), and the holding of public religious services outside such centres or places "must be communicated to the respective governmental authority sufficiently in advance ..." (art. 18, para. 2). Preachers "... shall take care that their sermons do not make adverse allusions to individuals, State institutions or other religious denominations, or incite their followers to disobedience or violence" (art. 23); they may not "undermine the political activities of the Government or question the legitimacy or actions of States bodies ..." (art. 25). Finally, article 27 stipulates that a minister of religion may not use his status "as a pretext to criticize acts by the secular power in sermons"; if that occurs, "he shall be reported through legal and statutory channels ..." (art. 27).

43. The Expert then heard testimony from 23 people who had requested interviews with him, at the UNDP offices. Three said they had been subjected to detention and other kinds of persecution because they were activists in underground opposition political parties. One said that there were more than seven parties operating underground for lack of a legal statute to govern their activities, and as many more in exile. Two others alleged that they had been detained and tortured in 1990 in the Directorate-General of Security, on charges of stealing a rifle from a military installation. The torture included being strung up, electric shocks to the most sensitive parts of the body, and death threats during interrogation. One of the victims - a soldier - said that he had been left with injuries as a result. A group of 13 people said they had been pre-selected by the Spanish advisers sent by the United Nations Centre for Human Rights the previous year. The purpose of the pre-selection was to identify suitable candidates to undertake legal and judicial studies in Spain. They had not yet received the fellowships offered by the Spanish Government and requested the Expert to intercede on their behalf. Four other people appeared before the Expert to express concern over a relative who had been detained on political grounds over a year earlier and was being held in Malabo prison without trial. Finally, a last witness said that at least four people in Bata prison were being detained on political grounds; they had been tortured and charged before a military court of participating in an alleged coup d'état in August 1988. He also said that in 1991 two other people had been detained and tortured while being interrogated about their political ideas, and had died shortly afterwards as a result of the torture.

44. The Expert ended his day's work late in the evening by meeting the Ambassador of Spain to Malabo, from whom he received information relating to his mandate at the UNDP offices.

45. On 28 November 1991, the Expert and the two staff members from the Centre for Human Rights went to Bata, where they stayed until 2 December 1991. On the afternoon of his arrival, the Expert held working meetings with representatives of the World Food Programme (WFP) and UNESCO. Despite his

requests, the Government did not assign a public official to accmpany and assist the mission during its stay, which meant that there were even more bureaucratic difficulties in the way of obtaining audiences with the authorities than the Expert had encountered in Malabo.

46. On the morning of 29 November 1991, the Expert visited the offices of the Regional Delegate of the Ministry of Foreign Affairs to whom he explained the nature of his mission and requested authorization to visit Bata prison. The Delegate referred the Expert to the Civil Governor of Bata, to whom he again explained his schedule of work, and his plans to travel round the continental territory of the country. To this end, he had obtained a safe conduct, which had been signed by the Minister-Delegate for Foreign Affairs and Cooperation in Malabo on 27 November 1991. The Governor explained that Bata prison came under the authority of the Ministry of Justice but was guarded by staff assigned to the Ministry of Defence. Authorization to visit therefore had to be obtained from both Departments. When asked about the alleged ill-treatment of prisoners, the Civil Governor declared that, if such treatment did exist, it was kept quiet and not reported to the authorities.

47. Subsequently, the Expert, determined to obtain authorization to enter Bata prison, went to the offices of the Regional Delegate of the Ministry of Justice, who in turn referred him to the Military Commander of Bata. The Expert resolved to go to the offices of the Military Commander, where he explained, once again, the nature of his mission, his wish to visit the prison, and thus the need for written permission. The Military Commander granted verbal authorization for the visit, agreeing that it should take place at 4.30 p.m. that day when, he assured the Expert, the prison Governor and all the staff would be ready to receive him and his team. At the agreed time, they went to the Bata Public Jail where they met the Regional Delegate of the Ministry of Justice and the Prison Administrator, First Sergeant Leoncio Micó Esono. From the Prison Administrator's replies to the Expert it emerged that the compound had 67 detainees, counting prisoners awaiting trial and those serving sentences; the political detainees were outside the prison doing "domestic work" in the homes of senior Government officials. In the circumstances, the Expert decided to return to the prison the following day, despite his plans to spend the day travelling within the country.

48. The Expert ended his working day by taking statements from nine people who had expressed a wish to meet him. One criticized the irregular way in which the courts had operated in a civil case in which he had been involved, owing to undue interference on the part of the authorities. Once he had exhausted domestic remedies, he decided to take his case before the country's Committee on Human Rights, and was still awaiting a reply. The other three people alleged that they had been persecuted for their political opinions, for they manifested disagreement with the established regime and favoured the creation of political parties. They also reported the detention and imprisonment of a further 19 political leaders during 1991, for the same reasons. Furthermore, they denounced the climate of fear and initimdation hanging over the population, created by the regime's civilian and military officials, the threats of exile made to all officials active in the opposition, the censorship of correspondence, police road blocks to monitor citizens' movements and police checks on travellers at airports and ports, persecution of those who distributed pamphlets bearing messages of peaceful

opposition, etc. Another five people, representatives of the Reformed Church of Equatorial Guinea in Bata, said they did not hold with a single political party which did not represent the people, the absence of freedom of political expression, and the excessive powers of intervention available to the Government as set out in the recent Act on religious freedom, despite their opposition when they had been consulted over the drafting of the bill three years before.

49. The Expert also met Antonio Eban Mbele Abang, who had been Vice-President of the Chamber of Representatives of the People until the end of November 1990. He said he had been accused of betraying the Democratic Party of Equatorial Guinea in a casual remark he made advocating political pluralism in the country. Consequently, the Central Committee had expelled him from the Party, which meant that he had promptly lost his seat in Parliament, without the House having been able to comment and without his having had the chance to defend himself. Furthermore, in 1991 he had been imprisoned for 20 days for alleged non-payment of a debt to the State. His case had been dismissed in August 1991 and he was released. He had tried to leave the country, and requested his passport and the compulsory exit visa, which were refused by the Directorate-General of Security. Since then he had felt as though he were being watched and under constant threat. Despite this, he had not abandoned his desire to set up a political party and open up the way for democracy in his country.

50. On 30 November 1991, the Expert and his team revisited Bata Public Jail early in the morning as he had said he would during the abortive visit the previous day. This time they were met by the Bata Military Commander, the Regional Delegate of Justice and the First Sergeant, the Prison Administrator. During the meeting, it emerged that the Military Commander was the highest authority in the prison. The Expert requested private and confidential meetings with five people who, according to his information, were being held in the prison on political grounds. The Military Commander agreed and the Expert was then able to take statements from the persons mentioned.

51. So it was that José Eneme Obono, who said he had been his country's consul in Douala, Cameroon, came before the Expert. As a result of a traffic accident involving one of the President's relatives who subsequently died in hospital in Douala while being operated on, José Eneme Obono was arrested in Bata on 21 December 1989 when he returned to Equatorial Guinea with the victim's body. He was kept at Bata police station for a month and a half, tortured, received blows to his feet and was strung up as he was being interrogated on the circumstances surrounding the death of the crash victim. On the basis of statements obtained under torture, he was sentenced to the death penalty by a court in Ebebiyin. The death sentence was later commuted to 30 years' imprisonment and since then he had been in Bata prison, although he had never received written confirmation of the court's verdict. When asked where he had been the previous evening, he stated that he had been taken from the prison by his guards and taken to work in the neighbourhood of the Tres de Agosto military camp, and that at nightfall he had been taken to spend the night in a cell in the nearby Moroccan camp. He was taken back to his own cell in Bata Public Jail early in the morning. He expressed surprise at what had happened, since political prisoners do not work outside the jail.

52. Immediately afterwards, the Expert met Joaquín Elema Borengue, who said that he had been arrested on 16 August 1988 and kept for seven days at a place of detention supervised by the Moroccan police in Malabo. There he was tied up, blindfolded and subjected to all manner of thrashings, hanging and torture. He was accused of having taken part in an alleged coup d'état, which he denies, although he does admit to being a political dissident. As regards his manifestly poor state of health, he stated that he had contracted tuberculosis three months before and that the treatment he had received consisted of a few tablets. Medical staff had informed him that a part of his lungs was damaged, and the illness had left him very weak. When asked what had happened the previous evening, he affirmed that he had been taken from the prison to work with the other prisoners, accompanied by his guards. This seemed unusual to him since the authorities had never given political prisoners the opportunity to work as they did to ordinary prisoners. He too had spent the previous night at the Moroccan camp. He is serving a sentence passed by a military tribunal, which has now been reduced to 10 years' imprisonment, but had initially been the death penalty.

53. Next, Pedro Bacale Mayé came before the Expert and told of his arrest on 8 August 1988 on accusations of taking part in an alleged coup d'état and of being tortured until 27 August 1988. His sentence, also passed by a military tribunal, has been reduced by virtue of presidential pardons, leaving him two-and-half years to serve. The previous day he had been taken to work and, in the evening, transferred to the Moroccan camp with the other prisoners. He stated that he had been treated badly by his guards, and frequently had had to endure verbal abuse which had left him disconsolate. With regard to his state of health, he also complained of frequent attacks of fever, affecting his head in particular. Occasionally, a medical orderly prescribes him tranquillizers. His food (provided by his relatives) and conditions of detention are obviously inadequate.

54. Francisco Bonifacio Mbá Ngueme, an ex-serviceman, stated that he had also been arrested on 8 August 1988, interrogated about his suspected participation in a coup d'état, and at the same time subjected to torture, including the "Ethiopia", which involves being strung up by the hands and feet for long periods. The previous day he had been taken, without warning, to work outside the prison, spending the night in a Moroccan camp, without any explanation from his guards. He complained of habitual ill-treatment inside the prison, that contact with his relatives was difficult and irregular, and that he had to pay the Prison Administrator to agree to the visits. His food was also provided by his relatives, but there was no specific day for family visits. According to his statement, the prison doctor did not visit on a regular basis, he had no lawyer, and believed there to be no independent lawyers in the country.

55. Finally, Gaspar Mañana Okiri Avoro came before the Expert. He explained that he had been arrested on 11 August 1988 by Moroccan and Equatorial Guinean plain-clothes policemen. He was handcuffed and taken to Bata police station where he was blindfolded and interrogated under torture, which consisted of being strung up for long periods (the "Ethiopia" method), beatings and an attemp to drown him in a tub filled with soap and water. He claims to have recognized the current Minister for Foreign Affairs among his military interrogators. On the strength of extrajudicial statements obtained under

torture, he was tried by a military tribunal on charges of having taken part in an alleged attempt to carry out a coup d'etat. After the interrogations he was held, with the eight other unfortunate detainees, in the Bata Public Jail where they were kept handcuffed for six months. The previous day he too had been taken with his companions to work in the neighbourhood of the Tres de Agosto military camp, spending the night in the nearby Moroccan camp with the other political prisoners. In the early hours of the following morning, a Moroccan soldier took him back to Bata prison, where ordinary prisoners told him that the Expert had arrived at the prison the previous evening looking for him. In his opinion, they were taken from the prison, without notice, expressly to prevent them from speaking to the Expert since in recent years they had never gone to work outside. With regard to his conditions of detention, he stated that the usual treatment he received was abysmal. Further, since 17 August 1991 he had been unwell, suffering from a loss of blood due to haemorrhoids. He had not received appropriate medical treatment despite requests on several occasions, to which he had been given the reply that he was "not being taken to the hospital because it is a Government hospital and [he was] a member of the opposition". He had to turn for help to one of the women prisoners in the prison who prepared him a potion, using a local remedy, which soothed the pain. He also stated that his own and his companions' correspondence was constantly censored, with the frequent letters of support being kept by the authorities. They are concerned about this situation.

56. The Expert then had a further meeting with the prison authorities headed by the Bata Military Commander, whom he urged to see that the sick prisoners received immediate medical attention. He emphasized that the prisoner suffering from tuberculosis needed to be taken to hospital and given emergency treatment. All sick prisoners should receive regular visits by a competent doctor and be provided with medicine free of charge. José Eneme Obono should immediately be told the verdict by virtue of which he is serving a prison sentence. Then the Expert and his team, escorted by the Bata Military Commander and the other prison authorities, visited the prison buildings where the prisoners are kept. They consist of four blocks set in a rectangle which all give onto a bleak, pitted courtyard full of large holes, testifying to a total lack of maintenance and cleanliness. The blocks have neither beds nor furniture, with prisoners sleeping all together on the floor, or at best on mats or newspaper. The clearly inadequate sanitary facilities are cheerless. In the corner of one of the blocks there is a small room containing four women, who enjoy neither privacy from the men nor separate sanitary facilities. When asked why they were being detained, a number of them explained that they were there owing to problems arising from the non-payment of dowries by their relatives. Finally, the Expert visited another block containing individual cells where four of the political prisoners he had just interviewed were held. The fifth prisoner, José Eneme Obono, was not there since the authorities did not recognize him as a political prisoner. He, therefore, had to share a block with the other ordinary prisoners. The conditions of detention for the four political prisoners, despite being extremely modest, like the rest of the prison, are better organized and cleaner, even the sanitary facilities.

57. In the afternoon of 30 November 1991, the Expert met, in his office in Bata, two members of the teaching profession, one working in secondary

education, and the other at university level. They informed him of statements made by the President on 24 November in Bata in the presence of the President of the Spanish Government, in which he invited Equatorial Guinean exiles to return home and take part in the process of political liberalization which had been proclaimed. According to them, on 28 November 1991, a group of approximately 60 Equatorial Guinean exiles in neighbouring Gabon, all members of the underground Social Democratic Union, returned to Bata in small boats. Without warning, the national police began to arrest all those they chanced upon, so they had to seek refuge in houses in the city. They also alleged that public freedoms, including those of expression and assembly, were being violated in Equatorial Guinea; cultural activities such as meetings needed prior authorization by the Administration. The written press, which consists solely of the Ebano and La Voz del Pueblo, was not published on a regular basis and was under the complete control of the Administration. The papers were published at the only printing press in the country, which had been donated to the Government of Equatorial Guinea by the Spanish Government. Later, the Expert visited Bata police station to enquire about the people who had returned from Gabon and were allegedly detained there. He was met by two police inspectors who told him to return at 6 p.m. the following day, when Chief Superintendent Cayo, the officer in charge, would be there. Later the Expert met the Rector of the Catholic Seminary in Bata and the Administrator of the Catholic Diocese, with whom he discussed the prevailing situation.

58. On 1 December 1991, the Expert met the Spanish Consul in Bata and had an informative conversation about the most pressing problems in the country. Later on, he received three more visitors who identified themselves as members of the opposition and prime movers behind the underground political party, Unión Popular (Popular Union). One of them had spent three months in prison in 1991 for his activities, but the case was finally dismissed and he was freed. He alleged that he had been tortured under interrogation by Moroccan and Equatorial Guinean soldiers. He felt as though he were being followed and watched, and thus had the sensation of intimidation and defencelessness which arises when a State is not subject to the rule of law and there are no democratic institutions to turn to for protection. The other two visitors, also activists in the the Unión Popular, likewise stated that between 13 July and 15 August 1991 they had been detained at Bata police station with eight other people who were finally freed after paying between 10,000 and 15,000 CFA francs. They were accused of having taken part in an alleged unlawful gathering. During their detention they were repeatedly threatened by Chief Superintendent Cayo. They alleged that they were under constant surveillance by police officers and that the Government was tampering with their private correspondence. With regard to the referendum on constitutional reform held on 17 November 1991, they affirmed that voting tables had been set out but that there had been no voting slips marked "no", and where they had existed, the soldiers guarding the polling stations had forced them to choose the slip marked "yes". Furthermore, the final vote had not been secret since the voting slips were of two colours and although they were folded in two before being deposited in the ballot boxes, the colour had still showed through (red for "yes" and black for "no"). Finally, they informed the Expert that on 10 December 1990 they had set up a National League for Human Rights which the Government refused to recognize.

59. At 6 p.m. that day, as instructed by the police inspectors, the Expert and his team went back to Bata police station where they were met by the duty superintendent, Elías Mbá Oná, and three other police inspectors. Despite the promises made, Chief Superintendent Cayo, the officer in charge, was not present. Superintendent Elías explained that detainees were kept at the police station for 72 hours maximum and were then turned over to the courts, if they were not freed. When asked about the persons being held at that time, he admitted that there were indeed an unspecified number of people who had "secretly" crossed the border between Gabon and Equatorial Guinea in two or three small boats violating an administrative order whereby only one disembarkation point was authorized in the country, the one in Bata. He also said that they were not exiles but casual Equatorial Guinean workers in Gabon and that no weapons had been found on them when they were arrested by the national police. Disregarding the administrative order could entail a fine of between 2,500 and 3,000 CFA francs.

60. The Expert asked to see the detainees. As night was already falling, the group of detainees was asked to appoint two representatives to meet the Expert in the police station in the presence of the aforementioned police officers. Thus, Angel Micó Alo and Acacio Mañé, an Assistant Secretary-General and an active member, respectively, of the underground Social Democratic Union political party, were brought before the Expert. They said that they had returned from Gabon in small boats in the middle of the night of 28 November 1991 after vainly seeking an audience with the President in order to obtain authorization to return home peacefully. On disembarking, a number of them were stopped by the national police, and 19 were currently being held at the police station on the same charges. Since then they had been kept incommunicado and interrogated by police officers. They had not been allowed to see their relatives despite the fact that their families regularly visited the police station to deliver food for the detainees. They stated that they were being detained in conditions unfit for human habitation since they had neither water nor sanitary facilities. Once the interview with the two detainees was over and they had been returned to their place of detention, the Expert urged Superintendent Elías and the police inspectors present to respect the legal standards of the country, turning all the detainees there over to the courts or freeing them as soon as possible. Meanwhile, they ought to improve the material conditions of detention as much as possible and allow detainees to communicate with their relatives, doctors and the counsel of their choosing.

61. In the early hours of the following day, 2 December 1991, the Expert telephoned the police station, hoping to speak directly with Chief Superintendent Cayo. Once again Superintendent Elías answered, and informed him that the written statements from the 19 detainees had started to arrive; he suggested that the Expert telephone later in the day when Chief Superintendent Cayo would be available. He did this, once again in vain, although he was informed that the detainees could be freed forthwith. With grounds for hope, the Expert replied that he would follow up the matter from Malabo.

62. Shortly after, the Expert visited Bata hospital, and talked with the Director, who told him about the country's poor medical services and hospital shortages. According to him, the hospital in Bata was State-run and took in a

large number of charity cases. Consequently, its budget depended on the Ministries of Finance and Health, in the same way as the other three hospitals in the continental region. The hospital had 12 Equatorial Guinean and 15 foreign doctors, sometimes working under very difficult conditions, including situations where there was no electric light for operations or temperatures reached 40° C inside the operating theatres. The hospital had 300 beds, but there was demand for 630. Only 1 per cent of the patients belonged to the country's social security system (INSERSO); other patients had to pay for medical and hospital services although the rates were reasonable and in cases of poverty, the hospital acted on a charity basis. The hospital frequently ran short of surgical equipment and medicine, in which case prescriptions were given to the patients so that their relatives could obtain the medicines from the pharmacies in town. Patients suffering from tuberculosis and leprosy were treated free of charge. According to the Director, 80 per cent of the cases treated were of malaria, diarrhoea and parasitosis, affecting both adults and children. In children, malnutrution was frequently due to the lack of vitamins, and to poor quality food. His hospital was not in a position to carry out complicated cardiovascular surgery but it did do operations for hernias and women's inflammatory complaints. Life expectancy in Equatorial Guinea was estimated at about 48 years. Over the year there had been two patients suffering from AIDS, who had died, and another seven cases had been found to be sero-positive. The Director also complained of a shortage of adequately trained staff to cope with the administration of the hospital and, with regard to material conditions, believed that the lack of medicine and surgical equipment, particularly anaesthetic, anti-malarial treatment and antibiotics, was the most urgent problem. He pointed out that the frequent diarrhoea suffered by patients was due to water which had not been adequately purified. In the city of Bata, water came from deep wells and was distributed without chlorination. Only 17 per cent of the population had access to drinking water in urban areas, and only 1 per cent of the country's population had water from the public network piped into their homes. The sewer system in towns was inadequate and covered only 42 per cent of the urban population, of whom only 40 per cent had their own toilets. There were 21 patients in the tuberculosis ward of the hospital, and those suffering from leprosy were kept in a hospital near Micomeseng, 136 km from Bata. Subsequently, the Expert went around the hospital, seeing for himself the lack of equipment and facilities.

63. The Expert then visited the National Teacher Training and Curricular Modernization Centre (CENAFOD), which receives considerable assistance from UNESCO and whose prime objective is to prepare textbooks suited to the country's actual needs, for local students. An experimental programme, which will conclude in 1992, has been launched in 80 schools throughout the country. The Expert was informed that in 1990 the country had 160 graduate teachers, i.e., teachers who had completed the required course of study at the teacher training college; there were also 556 certified teachers (three years' study) and 410 unqualified teachers. At the same time, there were 67,000 pupils in primary school (from age seven to fourteen) which is free and compulsory and comprises five hours of tuition per day, five days a week, although only 55 per cent of children attend. In addition, there were 42,000 pupils in pre-school education (from age three to six). School books and supplies have to be purchased by pupils (approximately 700 CFA francs). A teacher may frequently be responsible for from 50 to 60 pupils, or even more

in rural areas where all pupils are put in a single room, regardless of their level, and taught by the same teacher. It is estimated that in 1990 there were 46 national schools (in which several teachers taught), 102 grade schools (up to fourth grade) at which two or three teachers taught and 575 unitary schools (up to third grade) at which a single teacher taught. Attention was drawn to the need for teaching materials (books, desks, blackboards) and proper training for teachers, 40 per cent of whom are untrained. According to official figures from UNDP, 55 per cent of the population is illiterate on account of the high drop-out rate and the considerable number of children who never begin primary education. The drop-out rate is high: less than 10 per cent of children who begin first grade complete fifth grade. It is also common for children to repeat a year in the early years of schooling, since many do not speak Spanish, in which teaching is given, having grown up speaking their own langauges at home.

64. The Expert later met two individuals who claimed to be activists for an underground political party, the "Social Democratic Union", with 117,000 members among Equatorial Guinean exiles in Gabon. In spite of its peaceful and democratic goals, the party was not tolerated by the Government authorities and party activists were persecuted and imprisoned. They claimed that more party activists returning from Gabon had been detained the previous night, and that the police had chased and shot at one of them: his fate was unknown. A Bata corporation electrician said that he had not received his wages for seven months, a common occurrence among people who worked for the corporation (i.e., some 40 employees and 30 municipal policemen). The Expert then met a representative of the Reformed Church of Equatorial Guinea in Bata, who said that the previous night Alfonso Abeso, a 24 year-old man, had been shot dead by the national police while being interrogated; his body had not been found. The representative had also been informed that another detainee had recently been tortured during interrogation. Finally, the Expert met two representatives of the group of returnees from Gabon, who were in hiding, and who informed him that the number of detainees in Bata police station had risen to 22, all of whom were being held incommunicado in the same intolerable conditions. They reiterated that their motives in returning to their country were peaceful and democratic, as were those of thier political movement. Shortly after, the Expert and his companions set out on the journey back to Malabo.

65. On 3 December 1991 the Expert again requested the liaison officer from the Protocol Department of the Ministry of Foreign Affairs to organize appointments with the Director-General of Security, the Minister of Education, the Minister of Health and the Director-General of Radio, the Press and Television. At the liaison officer's request the Expert gave him a letter to the Minister of Defence, together with a list of questions which the Minister had demanded as a condition for the interview. He also asked the liaison officer again to request the Minister of Justice and Worship to issue credentials authorizing the members of the mission to visit Malabo Public Jail; the credentials were finally received on 3 December 1991.

66. On the same morning, the Expert visited the Directorate General of Security where, in the absence of the Director, he had a meeting with the Presidential Adviser on Security, the Batallion Commander of the national police and the Director-General of the Presidential Military Staff Committee.

He asked them about the detention of the 22 individuals in Bata Public Jail, which seemed inconsistent with the President's offer to allow exiles to return home freely. The authorities present replied that they were not aware of anyone being detained on political grounds and promised to look into the situation in Bata. They assured the Expert, on the other hand, that public demonstrations were authorized, exiles were gradually returning to the country without being persecuted and some even held posts in the administration. They admitted that Equatorial Guinean nationals required a visa from the Government authorities in order to leave the country. When questioned on the security role of the Armed Forces and the Moroccan guard, they replied that both bodies refrained from interfering in matters of public order and that the Moroccan guard's only responsibility was the personal security of the President. When the Expert pointed out that he had seen Moroccan guards at Bata Public Jail and he had been told that Moroccans were manning the barriers at the crossroads in Niefang, he was informed that their presence was merely to reinforce the police. He was also told that although Malabo Public Jail came under the authority of the Ministry of Justice, it was under military jurisdiction.

67. The Expert then paid a visit to the Minister-Delegate for the Advancement of Women, whose central offices in Malabo have a staff of eight. The Minister explained that her Department had been set up in 1980 to improve the standard of living of women in Equatorial Guinea in respect of food, hygiene and literacy. It was important for women to participate in the production of food, for it could not only feed their families but be bartered for other necessities. Her Department was also responsible for publicizing the Convention on the Elimination of All Forms of Discrimination against Women, to which Equatorial Guinea was a party, and the Social Security Act, the General Labour Act, the General Education Act and the Electoral Act. Currently, despite opposition from their husbands attributable to Equatorial Guinea's patriarchal tradition, there were eight women members of Parliament. Another field of action for her Department was informing women about family planning. However, she pointed out that polygamy, which was deeply rooted in the customs of the Fang ethnic group, posed problems for the achievement of women's rights. In the labour sphere, most women working outside the home had no contract of employment. Another matter specific to the Fang ethnic group was that of the dowry which the husband's family pays to the wife's family, and which generally represents over 70,000 CFA francs. If the couple separated, the dowry had to be repaid and initial responsibility for failure to pay was borne by the wife herself or by any member of her family, her father or brother for preference.

68. The Expert then visited Malabo hospital, where he met the hospital Director and the head of the Hospital Nursing Section of the Ministry of Health. He was informed that the hospital had a capacity of 232 beds, a new 52-bed ward, not yet in operation, having been added. The most common illnesses on the island of Bioko were endemic malaria, infant diarrhoea and lung disease. Average life expectancy was between 48 and 50 years. The medical personnel available included 17 doctors from Equatorial Guinea, assisted by 16 foreign doctors from four countries. The hospital needed approximately 60 doctors in order to operate satisfactorily. Of the approximately 600 patients admitted each month, only 15 were covered by Equatorial Guinea's social security (2.5 per cent), and the others had to pay

modest fees for the hospital care they received. When supplies of medicines ran out, prescriptions were written so that patients' relatives could purchase them at pharmacies. With regard to AIDS patients, there were some 25 sero-positive individuals in the whole of the country.

69. On the evening of 3 December 1991, the Expert and his party visited Malabo Public Jail where they were met by Army Sergeant Adolfo Mbá Micó, the prison governor; also present were a lawyer and other prison officials including some six Moroccan guards. They said that 52 prisoners, five of whom were women, were in their custody. The Expert requested private interviews with the political detainees, and his request was granted by the prison authorities. He thus interviewed Andrés Abaga Ondó Mayié, who said that he had been detained on 7 July 1991 and charged with behaviour injurious to the security of the President and with perjury. He had been sentenced to three years in prison by a military court. He claimed that he and his brothers were being persecuted because they did not conceal their opposition to the regime. He claimed that he had been unjustly convicted and had tried in vain to appeal against his sentence from the military court.

70. The Expert then met Pedro Motu Mamiaga Oyana, 46 years of age, who said that he had been detained in Bata in December 1990 and transferred to Malabo prison on 9 January 1991. He had been a lieutenant in the army and had taken part in the overthrow of the dictator Macias, whom he had even helped to detain. Since then he had begun to suffer political persecution until he had been forced to leave the army in 1979. He had spent several years under house arrest and had been detained on 16 different occasions. His most recent detention had been on 2 December 1990 in Ebebiyin, from where he had been transferred to Bata on charges of attempting to promote political pluralism and insulting the President. On 9 January 1991 he had been transferred to Malabo prison, since when he had been permanently locked up in a cell 1 metre long, 1.5 metres wide and 3 metres high. He had been kept incommunicado and had been allowed out only once a week to wash himself. He said that he suffered from pain in his spinal column as he was obliged constantly to crouch in his cell and was not allowed physical exercise. With regard to the reasons for his detention, his prison file merely indicated "political", and he had so far not been tried for any offence.

71. The expert then inspected the prison installations and visited Pedro Motu in his punishment cell, in which there was not even a bed for the prisoner to lie down on; the prisoner said that he was compelled to relieve himself in that tight space, in absolutely subhuman conditions. The Expert also visited other huts with rows of mats on which the ordinary prisoners, including Andrés Abàga Ondó Mayié, slept. Five women occupied a small room without any proper separation from the men, or even their own sanitary facilities. All the prison facilities were extremely rudimentary, in a state of neglect and lacking in the basic sanitary requirements. At the end of his visit, the Expert told the prison authorities that Pedro Motu should be treated with the dignity and in the manner due to every human being; he should no longer be held incommunicado or in a punishment cell and should be given proper medical treatment. With regard to the prisoner's procedural status, the Expert drew attention to the absence of any charges to justify his continued imprisonment.

72. On 4 December 1991 the Expert was visited by the representative of the World Health Organization (WHO) in Malabo, with whom he discussed the country's health situation and cooperation with the international health organizations in the country. The Expert then visited Parliament for the second time and met the President of the Parliament and nine members of the Committee on Human Rights, to whom he expressed his concern at having met, in the prisons and at Bata police station, prisoners detained without trial in unsuitable conditions. He drew attention to the case of Pedro Motu and the women prisoners in Bata and Malabo prisons. The President replied that the persons in question had not submitted complaints to the Committee, which thus had no authority to intercede. The Expert replied that article 9 of the Committee's own rules of procedure stipulated that it could "initiate and carry out on its own authority or at the request of a party, any investigation necessary to clarify the acts and decisions of the State Administration and of its agents affecting citizens, in the light of the provisions relating to human rights in the Constitution of Equatorial Guinea" (emphasis added). One of the members of the Committee said that many of his colleagues were not independent, since they simultaneously occupied executive positions within the Government. He also pointed out that the Committee had not been able to draw up its own rules of procedure, which had been imposed by a Presidential decree, dated 9 May 1991. He concluded that if the Committee was to enjoy the requisite independence, people occupying government posts should be excluded from it. Finally, the Expert looked through the 15 files pending before the Committee, finding shortcomings and oversights, and accordingly urged those present to be more active in defending the rights of those citizens most lacking in protection. He also said that, at a later date, the Committee might be given advice on how to fulfil its role properly. Following this meeting, on 5 December 1991, the Expert received a letter from the President of the Committee listing the Committee's needs, namely two typewriters and sundry office supplies; the letter also mentioned the possibility that two or three members of the Committee "could travel to follow an intensive course of one month's duration".

73. Shortly after, the Expert paid a second visit to the Minister of Justice and Worship, to whom he gave a letter dated 3 December 1991, setting out the details of his visit to Malabo prison and the conditions in which he had found the prisoner Pedro Motu Mamiaga. He pointed out that the situation constituted a breach of the minimum rules for the treatment of prisoners generally accepted by the international community, and asked the Minister to review the case of Pedro Motu quickly and put an end to his detention incommunicado in a punishment cell. The Minister replied that although it was not indicated on the prison record, Pedro Motu's case came under military jurisdiction. Sick prisoners were usually transferred under guard to hospital, where they were provided with medical care, and he would be surprised if Pedro Motu were not allowed to leave his cell to wash. The Expert also drew the Minister's attention to the case of Andrés Ondó Mayié, and to those of the five political prisoners in Bata. The Minister replied that they might shortly be pardoned, although José Eneme Obono was not classified as a political prisoner.

74. In the evening of 4 December 1991 the Expert visited the premises of the New Apostolic Church, where he met three church leaders and discussed issues relating to the recent Act on religious freedom. The leaders said that they

were awaiting final authorization from the Government to establish their church, whose fundamental objective was purely spiritual, in Equatorial Guinea. The Expert later visited and had a discussion with priests in a Catholic parish in Malabo. The priests mentioned several detainees accused of witchcraft ("kong"), who had allegedly been seriously tortured by witch-doctors with the connivance of members of the police force. One of the victims Diosdado Abaga Nvó, had died at the end of June 1991 as a result of the torture infliced by a witch-doctor, allegedly the sister of the Minister of Mining. A military court had sentenced two police officers who had taken part in the torture sessions to two years in prison, but they were still free. Other people had been detained and ill-treated merely for having attempted to contact the correspondent of the EFE press agency in Malabo. Freedom of movement within the country was seriously restricted by military checkpoints at crossroads and permanent police controls at airports and ports; Moroccan forces also manned the checkpoints at crossroads. The priests also expressed their concern at the lack of public freedoms and the authorities' persecution of political opponents and people attempting to set up political parties. With regard to the referendum of 17 November 1991, they said that the text of the constitution had not been properly published in advance; moreover, the ballot sheets had not been uniform: the "yes" ballots had been red and imprinted with the national flag, while the "no" ballots had been black and bore no flag. When a vote was cast the colour of the ballot slip showed through, thereby preventing the genuinely secret ballot which national legislation required; the polling stations had been guarded by policemen and military personnel who had even watched the private booth in which people chose their ballot slips. Consequently, the right of citizens to take part in politics had not been properly respected in the recent referendum. The country's only political party, the Democratic Party of Equatorial Guinea, was totally dominated by the State apparatus.

75. The Expert completed his work on 4 December 1991 when he took statements from seven people, one of whom said that he had been detained by Chief Superintendent Cayo in Bata on 26 June 1991, transferred to Malabo prison without a trial, and charged with being an activist in an underground political party (the Special Democratic Coalition). He had been unexpectedly released on 19 November 1991 on written orders from the Minister of Justice and Worship which did not specify the grounds for his arbitrary and unlawful five months' dentetion. He was not even made to pay a fine. In his view, the Expert's presence in Malabo and his forthcoming visit to the public prison accounted for the Minister of Justice's decision.

76. Another person, a Catholic priest in a village in Río Muni described the lack of independence of the parliamentary Committee on Human Rights, attributable to the fact that its officers were also members of the national Executive; the Committee's very rules of procedure had been imposed by Presidential Decree. He expressed his regret at the lack of public freedoms and the widespread fear among the population, which engendered mistrust towards the political liberalization announced by the authorities. The national police was continuing with its usual practice of arbitrary detentions which, in a virtual reversal of the presumption of innocence, often lasted more than 72 hours, and further intimidated the population. As far as the judiciary was concerned, he complained that justice was to a large extent manipulated by the body politic, which was extremely unpopular among the

population. There were also a number of discrepancies, attributable to the application of customary law in preference even to positive law and to the Constitution. He was sceptical about the development of political pluralism as laid down in the 1991 Constitution, because in his view the Democratic Party of Equatorial Guinea and the President would never relinquish their leading political role in favour of democratic liberalization. The Additional Provision to the 1991 Constitution, pursuant to which the President could not be tried before, during or after his mandate, would allow the regime to go on acting with impunity. The recent Act on religious freedom restricted freedom of expression and would allow pastoral letters to be censored; it would be impossible to express an opinion on political or social questions in sermons. In addition, the new Act allowed the Executive to obtain information on how churches were financed. He also referred to the job sector, saying that workers frequently lived in conditions beneath human dignity. Although State employees earned more than the legal minimum, they were regularly not paid. On the other hand, temporary employment and piecework were commonplace in agriculture and in the timber industry.

77. Two other people identified themselves as the wife and sister of Diosdado Abaga Nvó, who was detained on 29 June 1991 by three policemen who went to his home while he was asleep and took him away. His wife had attempted to find him at the police station, where she was allowed to see him, and realized that he had been severely beaten: her husband said that he had been interrogated by a policeman and civilians about alleged witchcraft, and had been accused of having "kong"; the police interrogations were directed by a witch-doctor. As a result of their repeated complaints about the ill-treatment of Diosdado, his wife and sister had also been persecuted and tortured, as a result of which one of them had suffered a miscarriage. On the next day Diosdado's wife had again been able to visit him and, finding him in poor health, had asked for him to be sent to hospital, where he was finally taken that evening. Nevertheless, Diosdado died in hospital the following day, i.e. three days after his detention. Two policemen were subsequently convicted by a military court to three years in prison, and the witch-doctor who took part in the interrogation to six months in prison. It seemed that the Governor of the town of Luba had borrowed 50,000 CFA francs from Diosdado, who had attempted to claim it.

78. The Expert also met the mother of Joaquín Elema Borengue, a political prisoner held in Bata for his involvement in an alleged coup d'état in 1988. She expressed concern about her son's health and irregularities in the proceedings against him by a military court which had given him a long prison sentence. Her son was, moreover, a United Nations staff member working at the UNDP office in Malabo. A civil servant, who asked to remain anonymous, explained to the Expert that the operation of the military courts was subject to no specific form of law. Although the case of Diosdado Abaga Nvó was a clear case of torture carried out on police premises, it had given rise to a conflict of jurisdiction which, in view of the legal void, had been settled in favour of the military courts: the accused were granted military privilege on the grounds that they were members of the forces of law and order, even though the Code of Military Justice made no such provision. The military court had sentenced three police officers to 10 years in prison and a witch-doctor, the wife of the Secretary-General for Territorial Administration, and her sister,

to six months in prison, but they had been released by arbitrary administrative decision since the pardon excluded persons convicted of homicide.

79. Finally, the Expert received a member of the Bubi ethnic group, who said that he had been the elected Mayor of a town on the island of Bioco in 1988, but had lasted barely six months in that office because of continual intimidation by members of the Fang ethnic group in the Central Administration He said that members of his ethnic group were subjected to constant persecution by the Government, which was largely Fang. Their independence aspirations had been stifled by the authorities, which did not allow the establishment of ethnically-based groups or parties. He also said that he had been detained for two days at Malabo police station (29 and 30 October 1991), charged with attempting to set up a political party. He was fined 50,000 CFA francs and, as he was unable to pay, was held for another day at the police station.

80. On 5 December 1991, the Expert visited the Director-General of the Civil Service and Administrative Coordination, who referred to the Civil Service Statute of 1988 and admitted that there were certain deficiencies due mainly to the shortage of qualified technical personnel. Under the Civil Service Statute, which he said was to be amended, civil servants could be removed from their posts by disciplinary action or by losing their nationality. Article 39 (1) of the Statute stipulated that retirement should take place at 70 years of age or after 35 years of service. Article 75 of the Statute provided that "civil servants may not engage in political activities against the Government". Any contravention of that provision was considered a serious offence which, under article 82 (g) of the Statute, could constitute grounds for disciplinary action. In conclusion, the Director-General said that there were no civil service associations or unions and that the right to strike was not recognized. Of the 5,500 members of the civil service, 13 per cent were women.

81. The Expert then visited the Minister of Defence who received him in the presence of the Secretary-General of the Ministry. The interview was granted after prior submission of a list of questions. To the question about the scope of article 99 of the 1991 Constitution, concerning the State Armed Forces and Security Forces, the Minister replied that the two bodies formed a single national institution under the direction of the Ministry of Defence. Their functions included "State security, public order and the normal functioning of the governmental authorities, in accordance with the provisions of the Constitution" (art. 99). In addition, article 39 (d) stated that the President was the Supreme Commander of the National Armed Forces and State Security Forces. Consequently, the President was the political, administrative, tactical and operational commander, advised by the Chiefs of Staff and the Director-General of Security - responsible for matters of public order - both of whom were subject to the authority of the Ministry of Defence. Public order was maintained by the Directorate-General of Security, the police and the Gendarmería Nacional. In reply to another of the Expert's written questions, the Minister said that any law enforcement official or citizen could make an arrest, but that only the police or judicial authorities could take further action. The Expert had also asked in his list of questions about the role of the Moroccan guard in maintaining public order, to which the

Minister replied that the Moroccan guard was responsible exclusively for the security of the President, had no connection with the police or the other security services and was not recognized as having any in the 1991 Constitution. The presence of the Moroccan guard in Malabo prison was due to the prison's proximity to the President's official residence. Furthermore, the prisons were built on military bases, and the security of the President had to be ensured throughout the national territory. The Minister also asserted that human rights were observed in Equatorial Guinea and that peace prevailed there. The Expert replied that there was no peace without democracy or freedom and that political liberalization should be oriented in that direction. He also said that the police forces should protect citizens and not be an instrument of repression. When asked about the military courts, the Minister said that their competence was determined by the person, the offence and the place where the offence was committed. These combined areas of competence meant that civilians were sometimes tried by military courts, which were ultimately answerable to the President as the country's Supreme Judicial Authority.

82. Shortly afterwards, the Expert again emphatically expressed to the liaison officer his wish to hold working meetings with the Ministers of Education and Health and with the Director-General for Radio, the Press and Television. In view of the inexplicable and persistent difficulties encountered, he decided to send a letter, dated 5 December 1991, to the Director-General for Radio, the Press and Television, attaching a list of questions and asking for an early reply. The questionnaire asked for the names of the country's communications media, both public and private, together with information on Government control of them, the freedom of the press and the free circulation of foreign publications within the country. Another question concerned the ability of citizens to express their opinions on State radio without prior censorship, the exercise of the right of correction, freedom to express political opinions via the communications media, Government control of State radio and television and of the "Radio Africa 2000" station, and so on. Finally, it was asked why distribution of La Voz del Pueblo (organ of the sole official party) was permitted but not of La Verdad (organ of an opposition group). At the time when this report was completed, no reply to the questionnaire had been received.

83. On the afternoon of 5 December 1991, the Expert took a statement from the brother of Pedro Motu Mamiaga, a political prisoner being held in Malabo prison. Another individual, obviously frightened, told the Expert that he had been arrested on 5 March 1991 by two police inspectors from Malabo. They had taken him to police headquarters where he had been tortured by being strung up for prolonged periods, flogged with electric cable and generally beaten up. He said that the liaison officer assigned to the Expert by the Government was actually one of the police officers who had taken part in torturing him. He had not been questioned and did not know why he had been arrested. He had simply been released the following day without any charges being brought; his injuries had been treated using traditional medicine. He reported what had happened to him to the State Attorney-General and the Examining Magistrate of First Instance of Malabo, whose treatment of him he described as humiliating. Fearing for his safety and not having the means to hire a lawyer, he had decided not to take any further judicial action.

84. Immediately after this, a lawyer who had held a public administration post and who asked to remain anonymous, told the Expert that he had resigned for ideological reasons. He said that the Bar Association had 34 members and that membership was compulsory for the private practice of law. However, as 70 per cent of lawyers worked for the Government or the Judiciary, only 30 per cent had private practices. In the absence of any national tradition, the practice of law was "very difficult". In his view, judges should be professional lawyers and not laymen, particularly in the Supreme Court and Court of Appeal. District, regional and traditional court judges were also laymen. Under article 86 of the 1991 Constitution, "the Head of State is the Supreme Judicial Authority of the nation and guarantees the independence of the Judiciary". As he saw it, it was difficult to ensure judicial independence when the Constitution also stated that "the President of the Supreme Court and its members shall be appointed at the discretion of the President of the Republic for a term of five years" (art. 91). With regard to the appointment of other magistrates and judicial officials, paragraph 2 of the same article referred to a future law. The informant also stated that the courts were often used as an instrument of political punishment, where dissidents were charged with practising witchcraft ("kong"). Regulations governing police custody, which should not exceed 72 hours, were habitually disregarded and detainees were arbitrarily held in isolation in punishment cells. With regard to freedom of the press, he said that written publications were controlled by the Government and the sole party; the foreign press did not circulate freely, so that the only way of obtaining information was through foreign radio broadcasts. He urged the international community to impose a complete boycott on his country to compel the authorities to embark on genuine political liberalization.

85. The Expert then received Fr. Luis María Ondó Mayié, a Catholic priest and brother of Andrés Ondó Mayié, a political prisoner serving a sentence in Malabo prison for insulting the Head of State. He said that he was frequently subjected to threats because of the social content of his sermons and had been branded an "enemy of the regime". With his brothers Andrés and Eusebio Ondó Mayié, he had been tried by a military court (Case No. 18/1991), which had sentenced Andrés to imprisonment for three years and a day and a fine of 30,000 CFA francs for "slandering and insulting the military institution of the Head of State". The military court had also called for "the issue of a court order against Eusebio Abang Ondó Mayié and Luis María Ondó Mayié for complicity in preparing the complaint lodged by their brother, the convicted prisoner Andrés Ondó Mayié". Although they have appealed against this ruling to the Supreme Court, no reply has been received to date.

86. A little later, the Expert saw three representatives of the Methodist Church, who complained of the lack of freedom to preach outside their churches without prior official authorization and of not being allowed into prisons to visit prisoners. They did not consider that the recent Act on religious freedom had yet been fully implemented. The extreme poverty of the population could be alleviated through political liberalization which would boost economic activity in the country. Finally, a last witness told the Expert that he had been unjustly evicted from his house following a court ruling in favour of a woman who was a friend of the Minister Secretary-General of the Office of the President. He had appealed to the parliamentary Committee on Human Rights, but had received no reply.

87. On 6 December 1991, the Expert and his party travelled to the towns of Rebola, 9 km east of Malabo, and Baney, 19 km east of Malabo. The road, particularly the first few kilometres, was barely usable owing to a total lack of maintenance. At Rebola, the Expert spoke with the elected Mayor, who told him that the town had a population of 5,642 belonging to the Bubi ethnic group. They were agricultural workers whose chief source of employment was the cacao harvest. The Expert then spoke with four local residents whom he approached spontaneously and alone on the road to the school. These complained about living standards, lack of work and lack of a decent wage for temporary piecework during the cacao harvest. They also said that no expression of political dissent was allowed and that disease, particularly malaria, was very widespread. In a house a few metres further on, a vigil was being kept over the body of a young man who had died of "fever" (malaria) the previous day. The Rebola State school, which was very poorly equipped, housed 680 pupils, supervised by eight teachers. That day, they each received a glass of milk and a tin of sardines from the World Food Programme. At the health centre, the Expert was received by a nurse and two assistants in dilapidated buildings where they said they administered vaccinations and attended deliveries. A doctor visits the health centre twice a week and conducts examinations for a set fee. As there are no free medicines, patients must purchase them themselves. However, many sick people received no treatment because they had no money to pay for medicines. The conditions most commonly treated were malaria and diarrhoea caused by drinking untreated water. Children, after being weaned do not get milk again until they are five years old, when they can attend school where it is distributed free of charge. The staple diet is poor and children often arrive at the health centre suffering from malnutrition. Shortly afterwards, at the Rebola Regional Court, the Expert met the magistrate and his clerk. The magistrate, who comes from Malabo twice a week, said that he was authorized to deal with cases involving claims up to a maximum of 200,000 CFA francs. Cases involving misdemeanours and other offences were heard by the Baney Court. He said that he had been appointed by the President and that he earned 24,000 CFA francs after 10 years of service. Since 1988, to be a district judge, or a clerk, it was necessary to have a higher school certificate. He had known of cases when the administrative authorities had interfered, through family connections, in the passing of sentences. Finally, the Expert visited the police station guarding the police barrier on the road to Malabo. He asked what the barrier was for and a police officer told him that it had been put there on orders from above. This concluded the Expert's visit to Rebola.

88. The Expert and his party then went to the town of Baney, where they saw the local Government representative who explained that the town was the district capital and had a population of 2,500. The Expert then visited the town hall, where he spoke with the Mayor and town clerk, in the presence of the local Government representative and the Superintendent of Police. It was explained that local residents were free to express their political opinions and that they were involved in the development of the town. The Expert then visited the district court, where the magistrate told him that he had been appointed by the President and did not tolerate any interference in the performance of his duties. His office was extremely poorly equipped and on his desk was a flag of the Democratic Party of Equatorial Guinea. Later, the

Expert spoke with two local residents returning from working in the fields and concluded his visit to the town of Baney, returning to Malabo late in the evening.

89. On 7 December 1991, the Expert was visited at the UNDP office by a law student who said that he had been arrested and beaten up in 1984 and questioned about the alleged sale of a lorryload of foodstuffs. He was then released without any charges being brought, but was dismissed from his civil service post. He said that he was a member of the Bubi minority and as such was subjected to continual discrimination by the dominant ethnic group (Fang). He said that, in the town of Batete, 14 kilometres from Malabo, the Bubi had to pay taxes or arbitrary fines to the local Government representative on pain of being taken away to perform forced labour on his farms. He said that the Government wanted to exterminate the Bubi ethnic group on the island of Bioco. Later, a soldier told the Expert that he was not receiving his regular pay and that he did not know why. Another individual, also frightened, said that he had been a police inspector and had been dismissed for accusing the Government representative of corruption; in 1988, he had been held under arrest for six months and then released without being brought to trial. He said that he belonged to the Ndowe ethnic group and thought he was being discriminated against by the Fang, the dominant group in national politics because of his ethnic origin. The Expert was then visited by the wife of Joaquín Elema Borengue, a political prisoner in Bata prison, who he was told had been ill and was suffering from malaria. She said that he had been convicted by a court for his part in an alleged coup in 1988 and sentenced to a long term of imprisonment without having been accorded legal assistance or other procedural guarantees. Shortly thereafter, the Expert was visited by another individual, who said that he had been arrested in Bata on 9 January 1991 on his way back from Libreville, accused of having brought political pamphlets into the country, and held in the prison at Malabo without trial. On 29 November 1991, he was unexpectedly released on the written order of the Minister of Justice and Worship. During his detention, he had contracted malaria and had had to do without medicines as he had no money to buy them. He believed that his release was due to the Expert's presence in the country.

90. The Expert concluded his day's work with a meeting at UNDP headquarters with the UNDP Resident Representative and the Ambassadors of Spain, the United States, France and the European Economic Community, with whom he had an exchange of views regarding his mandate. Particular reference was made to the Government's request for United Nations assistance with the purchase and installation in Malabo of a printing press, which was considered essential since there were purportedly no printing presses available in the country. In that connection, the Ambassador of Spain stated that Spain, under its programme of cooperation with the Government of Equatorial Guinea, had presented the country with a complete printing press in perfect working order and with sufficient capacity to meet its needs.

91. On Sunday, 8 December 1991, the Expert waited all day, to no avail, to be called to the audience which he had so often requested with the President of the Republic. Unfortunately, the meeting did not take place, which was a serious set-back to the Expert's mission. No explanation of any kind was received. During the prolonged wait, the office received a visit from a

person who said he had been arrested in Bata on 26 June 1991 by Chief Superintendent Cayo for alleged political activism. On 2 July 1991, he had been transferred to Malabo prison without trial. He had been unexpectedly released without being charged, on 27 November 1991, on the order of the Minister for Justice and Worship. In his view, the Expert's presence in Malabo and his impending visit to the prison had precipitated the Minister's decision. He also stated that, the preceding day, 7 December 1991, he had set off to Bata by boat but had been arrested in Malabo harbour by an army major who had ordered him to be taken to the military barracks. While being escorted there, he had managed to escape and was currently in hiding in order to avoid being re-arrested. He was advised to apply to the parliamentary Committee on Human Rights for protection of his rights.

92. The following day, the Expert and his party went to Malabo airport and, after being seen off by junior officials of the Protocol Service, left Equatorial Guinea, thus concluding their mission.

IV. CONCLUSIONS

93. The human rights situation in Equatorial Guinea has seriously deteriorated. The institutional system is that of a police State backed by the army and personally controlled by the omnipresent, omnipotent figure of the President: in other words a dictatorship.

94. In such circumstances, individual human beings are helpless against the manifold and frequent excesses of absolute power. Intimidation, arbitrary arrests in police stations followed by beatings, internal exile or administrative detention, long periods of detention in prison without charge or without being brought before the courts, followed by interminable and cruel periods of detention incommunicado, keep the population in a state of permanent and increasing fear.

95. Rather than alleviating the hardships suffered by the population, the courts operate as the obedient tools of the body politic, whose head - the President - appoints and dismisses their members. Consequently, the courts are a discredit to justice and fail to protect citizens' human rights and fundamental freedoms. This grim description of justice in Equatorial Guinea is made still grimmer by the military courts. There is a complete and dangerous lack of any definition of which offences and individuals come within the jurisdiction and competence of the military courts, accordingly they act arbitrarily, depending on the political interests of the ruler.

96. Witchcraft has made a place for itself as a loathsome and dangerous form of repression against individuals who, for any reason whatsoever, find themselves in the sights of any of the regime's representatives. In practice, witchcraft, in particular "kong", leads to torture at the hands of the police. A civilian who was subjected to a beating and to psychological pressure has already died, and his wife and a sister were also tortured.

97. Freedom of religion and worship have been severely restricted. Although there are many religions and places of worship open, the Act Governing the Exercise of Religious Freedom, of 4 June 1991, restricts freedom of worship

and subjects religion to excessive control by the State, whose interference in religious life subjects it, de facto and de jure, to the same omnipotent political will that crushes freedom in the country. The Government has persuaded the population that Act No. 4/1991 actually constitutes one of the democratic innovations currently being proclaimed for all to hear. However, religious leaders of various denominations drew the Expert's attention to what has actually been going on, and the Expert himself was able to verify the allegations of priests, ministers and religious leaders. Indeed, articles 1 and 2 of the Act lay down detailed norms respectful of religious freedom. Articles 3 and 4, however, set restrictions that run counter to that same freedom on the pretext of safeguarding public order, whose excessively broad definition provides ample scope for the arbitrariness characteristic of the regime. "Religious proselytism" is specifically designated as "an activity injurious to the rights recognized" by the Act (art. 4).

98. The same Act on religious freedom subjects the churches to close checks before they are issued with the obligatory licence to operate, and to severe controls on their religious activities once they have been authorized to operate by the President. For example, "worship shall be limited exclusively to the spiritual dimension of the individual for the purpose of saving souls" (art. 21). Thus the Government may, and has, prohibited ministers, priests and religious leaders from referring to socio-economic conditions or Government policy in that sphere. In addition, any apparent breach of that restriction must be reported. Other forms of undue interference affect all aspects of church administration.

99. There is no freedom of opinion and expression. The Government persecutes anyone who expresses even the mildest form of dissent. Citizens are frequently imprisoned for having pronounced any word deemed "offensive" by the police and security officials. The population lives in terror of this form of repression, even now when the Government is proclaiming political pluralism, for external consumption.

100. Nor is there freedom of the press. The Government stifles any attempt to set up communications media outside the State monopoly over the press, radio and television, which are run by compliant agents of the Government and allow no room for the opposition. The written media include a Government paper and another belonging to the Democratic Party of Equatorial Guinea, the single party, which operates as one of the regime' tools of political domination. An opposition paper has begun to circulate underground. Even "Radio Africa 2000", a cultural organ belonging under the Spanish cooperation programme, operates under Government censorship.

101. There is no freedom of peaceful assembly and association. Freedom of assembly is repressed even when small groups of neighbours meet to share their views on day-to-day events and problems. Denunciations by informers in the service of the Government are the order of the day, and any opinion that questions the status quo, however mildly, is considered subversive.

102. People are not free to participate in the Government. The establishment of associations or political parties other than the official party is prohibited. In mayoral elections, the final decision is taken, as in all

aspects of the country's life, by the President. Article 1 of the 1991 Constitution does recognize the principle of political pluralism; unfortunately, this principle has in no wise been put into practice.

103. There is no separation of powers. The Supreme Court of Justice and the Chamber of Peoples' Representatives are servile instruments of the President, used to underpin his despotic personal power. According to the Constitution (1991 Constitution, art. 86), the President is also the "first Magistrate of the Nation and guarantees the independence of the judiciary". In other words, besides being Head of State and President of the Democratic Party of Equatorial Guinea, the single party, the President of the Republic is also the leading member of the judiciary and responsible for appointing and dismissing magistrates and judges. He may also dismiss a sitting elected deputy at will, as he has already done.

104. There is no trade union freedom. Both private and public sector workers are at the mercy of their employers. Wages are totally unjust, as are other working conditions, and the right to strike is not recognized.

105. The situation of women is not in keeping with the universal standards recognized in a democratic society, in spite of the praiseworthy efforts made by the Ministry for the Advancement of Women, headed by a woman. Polygamy is a formidable hurdle to the observance of women's rights.

106. There are no effective remedies before the courts to shield citizens from violations of the Constitution or ordinary laws. There is no habeas corpus, amparo or action of unconstitutionality. All three remedies are enshrined in the Constitution, but there is no procedural means of putting them into practice, and no political will to make good the deficiency.

107. The population is bowed down by poverty, ill health and inadequate food and education. Measures to combat these shortcomings do not count among the Government's priorities; exercising absolute political power is at the top of its agenda.

108. The Public Jail in Malabo, the capital, has inhuman isolation cells. Generally speaking, conditions there and in the prison at Bata, on the mainland, violate United Nations standards for the treatment of detainees, and detainees are often held for long periods without being charged, without being handed over to the courts and without being given any real opportunity of consulting a lawyer. The prisons fail to keep men and women, ordinary and political prisoners, and people in pre-trial detention and convicts properly separated.

109. During interrogation at police stations, detainees are habitually subjected to inhuman, cruel and degrading treatment. People detained on political grounds also allege physical and psychological torture by both Equatorial Guinean security officials and Moroccans.

110. The subservience of the courts to the political authorities enormously hampers defence counsel in criminal cases, where repression by the regime is pervasive. The marked increase in the number of practising private lawyers

(from 12 in 1979 to 35 in 1991) is a positive development, in spite of the huge difficulties independent lawyers face in exercising their profession. This encouraging achievement is due to the support provided by the Universidad Nacional de Educación a Distancia (UNED) in Spain, which has a centre in Malabo.

111. The new Constitution proclaimed in December 1991 is less democratic than the 1982 one, although its language gives the opposite impression. Whatever the case, these conclusions need to draw attention to the "Additional Provision" in the new Constitution, which not only institutionalizes the personality cult - one of the characteristics of the regime - but also stipulates that "the President of the Republic, OBIANG NGUEMA MBASOGO, may not be prosecuted, tried or called as a witness before, during or after his mandate".

112. The Act regulating the Committee on Human Rights in Equatorial Guinea states that the Committee is responsible for hearing complaints of violations of rights, for carrying out the relevant investigations, and for making recommendations to the President or to citizens, but the Committee has proved inoperative: the first (and only) 15 cases are not being dealt with and no conclusions have been issued. Although the Committee's responsibilities include initiating and carrying out on its own authority investigations into violations of the human rights enshrined in the Constitution, the Committee has done nothing to exercise that responsibility, thereby clearly demonstrating its failure to perform its duties, either in response to complaints or on its own initiative. The fact is that the Committee mostly consists of loyal supporters of the Government and is chaired by the President of the Chamber of Peoples' Representatives; consequently, the political will to defend citizens is lacking. As is the case throughout the country, fear of offending the President and his allies inhibits any measures to safeguard citizens' fundamental freedoms. The Government is aware of this, but does nothing to make the Committee functional.

113. The same is the case of the Act Governing the Right of Complaint and Petition: it is nothing but rhetoric. It is inoperative, and the Government does nothing to publicize it among its citizens. No complaint or petition has had a satisfactory outcome. None has been answered.

114. In fact the institutional system in Equatorial Guinea masks the real human rights situation, which belies the legal rhetoric. There are thus two spheres: fiction and reality. In the real world the population suffers; the fiction seeks to conceal that fact, abetting the arbitrary exercise of power. Part of the problem springs from the fact that the Government does not at heart believe what it preaches about human rights, or at best believes only its own interpretation of the subject, which amounts to making declarations on "the rights and freedoms of man as defined and enshrined in the Universal Declaration of Human Rights in 1948 (sic)" (fifth preambular paragraph to the Constitution of Equatorial Guinea, from the reform bill published in the Boletín Oficial del Estado, 15 October 1991) without acting on them.

115. This situation is illustrated by the Minister for Foreign Affairs' telling question at the beginning of the Expert's visit: "What do human rights have

to do with democracy?" Taken aback, the Expert replied, "everything", and then attempted to summarize the indissoluble link between the two concepts while preparing himself for what he expected, and actually did encounter throughout his visit: Government indifference towards the cause of human rights and fundamental freedoms.

116. The gap between reality and fiction in Equatorial Guinea is also illustrated by a remark made to the Expert by a young man in a small village: "This village is under a spell." The Expert asked "Why", to which the young man replied: "Because nothing happens here. We don't know what's going to happen tomorrow." However, in the Government's view, the whole country is steadily progressing towards political pluralism. So far, this complacent view of reality has not been borne out by the facts.

117. Also noteworthy is the President's request for the United Nations to help the country by providing it with a printing press (letter dated 23 September 1991, addressed to the Under-Secretary-General for Human Rights), when the country has already been given a working printing press capable of meeting its needs by the Government of Spain.

118. The problem of exiles is particularly revealing of the actual situation. During the recent visit by the President of the Government of Spain, Felipe González, the President of Equatorial Guinea spoke out in favour of the exiles' return. A few days later, however, when the Expert visited Bata, he found that a group of 19 exiles who had returned in small boats or launches from neighbouring Gabon were detained in Bata police station. Although the Superintendent, Elías, promised to release the men upon payment of a fine, the Expert was unable to find out whether he or his superiors carried out that promise, despite his telephone calls to ascertain what had happened over the next few days, including one the day before his departure. The police superintendents and inspectors - four in all, plus Chief Superintendent Cayo - manifestly avoided the Expert and unduly hampered his work. In addition to this group of detainees, which after a few hours grew to 23, the Expert learned that many other exiles from neighbouring countries had returned home to Río Muni (the country's continental part), where they preferred to remain hidden for fear of the police.

119. It is a noteworthy illustration of the country's present situation that the Expert was able to meet a large number of individuals from various walks of life and spheres of society who responded to his invitation or requested interviews themselves. On previous visits, it had been made difficult for him to talk to people and he had had to seek out the information he required to fulfil his mandate. On this occasion - his fourth visit - people came to see him, clearly determined to reveal their personal problems vis-à-vis the regime, which they denounced in spite of the widespread fear of reprisals, which were by no means figments of the imagination.

120. The frequent references to political parties in Equatorial Guinea by many of the people the Expert interviewed are also illustrative of the state of affairs in the country. This again is very different from former times. There now appears to exist a spirit of opposition, albeit scattered and underground, which is seeking to play a part in democratic liberalization out

of personal conviction, in view of the regime's decline and the back sliding towards the kind of situation that obtained before the "Freedom Coup" of 3 August 1979. The opposition is trying to act in accordance with the Government's announcements and preachings about the transition to democracy, or, as the President himself has stated, the "programme for opening up a pluralist political system" (letter dated 19 September 1991 addressed to the Secretary-General of the United Nations).

121. The Bubi ethnic group in Bioko is still being subjugated by the Fang ethnic group, which governs the country. In particular, Bubis are prohibited from organizing to defend their culture and achieve the degree of autonomy within the Republic to which they are entitled. The same is true of the Ndowes and other ethnic groups in Río Muni, and of the Annobonians on Annobón island.

122. Finally, the Expert would like to place on record the fact that he encountered significant obstacles in his mission, including a lack of cooperation by the Government in aspects crucial to the fulfilment of his mandate. Despite repeated requests, he was not able to meet the President, the Ministers of Education and of Health or the Director-General of the Press, Radio and Television.

V. RECOMMENDATIONS

123. Only through far-reaching changes in its political system can Equatorial Guinea be saved from the extremes it reached under the dictatorship of Francisco Macías Nguema, ousted by the current leaders in 1979. Only through the leaders' political will can the institutional reforms urgently needed for the effective protection of human rights and fundamental freedoms be achieved.

124. What is needed, in short, is clear signs of the political will to achieve authentic democratic liberalization. Announcements and pronouncements must give way to the more important business of effective measures to institute a representative democratic regime whereby individuals and groups can pool their ideas and efforts in order to bring about conditions in which all freedoms and the means to protect them can thrive.

125. To initiate that process as soon as possible, the Government should implement the following Emergency Plan of Action, to replace the now defunct 1980 Plan of Action:

(a) If no amnesty and pardon decree has been published by the end of 1991, one must be published during the first quarter of 1992. The decree would extend to exiles and those detained and convicted for offences against State security and other related offences ("political prisoners");

(b) The following decrees and laws should be drafted and put into effect during the first half of 1992: (1) a law on elections and political parties; (2) an associations law; (3) a law on the constitutional court, which would cover proceedings relating to the remedies of habeas corpus and amparo as well

as actions for unconstitutionality; (4) a law reforming the Act on religious freedom; (5) a law on freedom of opinion and expression, which would cover freedom of the press;

(c) During the second half of 1992, a registration period for political parties should begin. The Democratic Party of Equatorial Guinea should also comply with the registration procedure. There would enter into effect also during this period a law, on freedom of association, which has already been drafted in cooperation with the International Labour Organisation (ILO), but has been sleeping the sleep of the just until now. ILO Conventions Nos. 87 and 98 on freedom of association, No. 100 concerning Equal Remuneration and No. 111 concerning Discrimination in Respect of Employment and Occupation should also be ratified;

(d) Throughout 1992, efforts to train administrative staff, in particular those working in the administration of justice, should be redoubled. Reforms of the Civil and Penal Codes would continue, as would that of the Codes of Civil and Criminal Procedure, in keeping with the old Plan of Action;

(e) During the first half of 1993, the constitutional reforms required for election of the President, the Chamber of Peoples' Representatives, town councils, mayors and other representative bodies for the new democratic era should be instituted;

(f) In or around the second half of 1993, general elections should be held for the purpose mentioned above. They should be by secret ballot, based on a comprehensive updating of the electoral rolls and proper representation of the political parties on all electoral bodies.

126. All the reforms proposed in this new Emergency Plan of Action should be discussed with widespread participation by independent individuals and groups as well as opposition political parties, once amnesty and pardon decrees have been enacted to allow exiles to return, certain groups to cease operating underground and political detainees to be released.

127. For the purposes of these reforms, which would cover the essential norms but no more, a Special Legislative Commission should be formed, with representatives of independent individuals and groups (including the churches) and the opposition political parties. Information on the Special Commission's progress should be made generally available during and after the completion of its work.

128. To give effect to this proposed new Emergency Plan of Action, which the Government must approve, the President should designate a Follow-up Committee of 10 to 12 members representing the various interest groups in society. The Follow-up Committee would report to the Government periodically on progress with the new Emergency Plan of Action and make suggestions for dealing with any delays and obstacles that might arise.

129. The United Nations Commission on Human Rights, and in particular the Centre for Human Rights, would be prepared to provide such technical assistance as the new Emergency Plan of Action might require - subject to their ability - at the Government's request.

130. As part of the technical assistance mentioned above, the United Nations Centre for Human Rights should, at the Government's request, provide a human rights officer, based at the UNDP offices in Malabo, to assist the Equatorial Guinean authorities, in particular the Special Legislative Commission and the Follow-up Committee referred to above, in carrying out their mandates under the new Emergency Plan of Action. The officer would also coordinate assistance from the Centre for Human Rights to the Government, especially in the provision of advisers to draft the legislation required by the new Emergency Plan of Action and draw up the periodic reports which Equatorial Guinea has to submit to the Committees established under the International Covenants on Human Rights. He or she would press the national authorities to ratify the principal human rights conventions to which Equatorial Guinea is not yet a party. Finally, he or she would advise the authorities on the best way of establishing and strengthening independent national institutions to promote and protect human rights. These duties would be performed in cooperation with the Expert.

131. The return of the exiles is a fundamental requirement for the democratization process to be authentic and lasting. There must be extensive safeguards for the freedom and security of every returning exile, and the Government must have the will to help in creating job opportunities for those who return and not impose conditions as to the lawful activities including politics, in which exiles may wish to engage. To that end, the Government should seek aid from the Office of the United Nations High Commissioner for Refugees (UNHCR) and cooperation from the International Organization for Migration (IOM).

132. The Government should offer to conclude with the International Committee of the Red Cross (ICRC) an agreement enabling the Committee to make periodic visits to civilian and military prisons and other detention centres, including isolation cells. That would make it possible to end the ill-treatment of detainees and to ascertain their physical state of health, in particular with regard to those being held incommunicado. The goal would generally be to enforce the "Standard Minimum Rules for the Treatment of Prisoners", adopted by the United Nations Economic and Social Council in resolutions 663 (XXIV), of 31 July 1957, and 2976 (LXII), of 13 May 1977. An ICRC presence in the country might also be used to mount an educational programme on international humanitarian law, aimed in particular at the armed forces and security forces.

133. The Government must plan to eliminate all forms of ill-treatment of detainees, including torture. In particular, it must prosecute all forms of witchcraft, especially the type known as "kong", which is now being practised against innocent people and people identified as political adversaries of the Government.

134. A proper separation must be made in prisons between men and women, ordinary prisoners and political prisoners and persons in pre-trial detention and prisoners serving sentences. Prolonged and arbitrary detention incommunicado must cease. The Government should make an urgent effort to improve facilities in prisons and the physical and sanitary conditions in which prisoners live.

135. Maintaining order and internal security must cease to be the responsibility of the army, which should return to barracks under civilian authority. This would go a long way towards creating the atmosphere of security that in indispensable for democratization. Similarly, the Moroccan guard should not be involved, as it is now, in police matters, much less in interrogations and ill-treatment of detainees.

136. The ban on publishing or distributing unofficial printed material should be lifted promptly, and there should be no prior censorship of publications. The opposition must be given access to the official media, including radio and television.

137. It is also essential for complete freedom of opinion and expression to be promptly guaranteed.

138. Complete freedom of religion and worship must also be instituted.

139. Freedom of assembly, association and freedom of movement throughout the country must be guaranteed without police barriers to impede them as is now the case.

140. The military courts must undergo a thorough review and cease to be an instrument of repression against civilians. Military courts should have jurisdiction only over offences of a strictly military nature, committed by military staff and on military premises.

141. It is crucial for the ordinary courts, especially, at the outset, the criminal courts, to be made independent of the Executive and to be provided with trained lawyers.

142. Detention for political reasons must end, especially detention for long periods without referral to a competent court.

143. Independent lawyers must be guaranteed the right to exercise their profession, especially in defending criminal cases.

144. The Committee on Human Rights in Equatorial Guinea must be reconstituted to comprise independent individuals who are prepared to use it to defend citizens. The new Committee must also complete the cases in progress and make use of its powers to investigate on its own initiative, situations infringing citizens' rights and freedoms. New cases arriving before the Committee must be processed without delay.

145. Similarly, the Act governing the Right of Complaint and Petition should be revised, turning it into an effective instrument which can function without interference from the Committee on Human Rights in the country. Citizens must also be made aware of the Act, and of the one relating to the Committee on Human Rights.

146. The Government must ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the United Nations General Assembly on 10 December 1984, which entered into force

on 26 June 1987. The Government should also consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; the International Convention on the Elimination of All Forms of Racial Discrimination (in force since 4 January 1969); the International Convention on the Suppression and Punishment of the Crime of Apartheid (in force since 18 July 1976); the Convention on the Prevention and Punishment of the Crime of Genocide (in force since 12 January 1951); the Convention on the Rights of the Child (in force since 2 September 1990); the Convention on the Political Rights of Women (in force since 7 July 1954); the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (in force since 9 December 1964) and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (in force since 30 April 1957).

147. The Government should help the Bubis in Bioko to organize to defend and enhance their cultural values, in the framework of an autonomous system enabling them to live in harmony with other ethnic groups in the Republic. The Ndowes and other major ethnic groups throughout the country should be given similar autonomy.

148. Generally speaking, until Equatorial Guinea becomes a democratic State, any pious talk by the Government of democratic liberalization will remain mere rhetoric. Establishing such a democratic State allowing full enjoyment of fundamental rights and freedoms such as occurs in all democratic societies, whatever their culture, should be the Government's top priority because the current situation is the opposite: the institutions and practices of a police State, exposing its subjects' lives to the ruler's whims, to the grave detriment of the basic rights and freedoms of the country's noble people.

149. In order to strengthen the democratic system of government that is to replace the current regime, the primary and secondary school curricula should be purged of references to the personality cult surrounding the President and instead contain basic information on the everday life and system of government under a representative democracy and information on the public freedoms enshrined in the Universal Declaration of Human Rights, among other important documents.

150. It is clear that children and young people will learn to value representative democracy when their parents can share with them a life free of fear, and they themselves can be spared, at their young age, the bitter experience of having their parents persecuted by the police.

151. The Government must give maximum priority to combating the corruption that was so often reported to the Expert during his mission, and, at the same time, to rapidly improving the standard of living of its people. Proper management of the country's natural resources, together with appropriate international assistance, ought to have a favourable effect on the still-low population (356,000) if the benefits were not unfairly siphoned off. As poverty is gradually eliminated, special attention should be given to the people's food, health and educational situation, in order for the enjoyment of economic, social and cultural rights to become a reality.

152. The human-rights situation in Equatorial Guinea should be of serious concern to the international community. This would be an opportune moment for coordinated action by the appropriate international bodies to bring their influence to bear in favour of a real change in the situation and thus avoid allowing the time for democracy to slip away and the dictatorship to continue. The United Nations Commission on Human Rights must decide how best to ensure that the situation of human rights in Equatorial Guinea continues to be studied as a matter of high priority.